

Buffalo Niagara Coalition for Open Government

Thursday February 13, 2020, 6:30 PM

Public Comments Are Welcome At Any Time During Our Meetings. Don't Be Shy To Ask A Question Or To Make A Point!

AGENDA

- 1) Open Meeting
- 2) Meeting Minutes from January 9, 2020 PG 1-2
- 3) Treasurer's Report
- 4) Amended Certificate of Incorporation 3-10
- 5) West Seneca Town Board 11-13
- 6) Niagara County IDA 14-15
- 7) Niagara County Financial Disclosure Forms
- 8) Niagara Falls City Council 16-18
- 9) March 19, 2020 Sunshine Week Event
Understanding the Open Meetings Law & The Need For Reform 19-20
- 10) Camera Purchase
- 11) New Business
- 12) Next Meeting March ____, 2020 at 6:30 pm

Minutes for Buffalo Niagara Coalition for Open Government January 9, 2020

Meeting called to order at 6:30 p.m. Present: Paul Wolf, Joe Kissel, Mike Kless, Sonia Dusza, Maria Tisby, Richard Bertrand, Ed McKee, Janet Vito, Larry Vito, Michael Higgins, Robert Thill.

Meeting Minutes: The meeting minutes from November 7, 2019, were approved on a motion made by Rich Bertrand and seconded by Mike Kless.

Treasurer's Report: Janet Vito reported our account balance as \$1,081.78, as of 12/31/19. We Ed McKee made a motion to approve the Treasurer's Report which was seconded by Larry Vito. Motion was unanimously approved.

Board Elections: Mike Kless made a motion seconded by Ed McKee to approve the following individuals as Board members for a 2 year term commencing January 6, 2020 and ending January 6, 2022: Michael Kless, Janet Vito, Larry Vito, Sonia Dusza and Maria Tisby.

Changing Our Name: After discussion of several different ideas a motion was made by Larry Vito seconded by Maria Tisby to change the organization's name to the New York Coalition for Open Government. Motion was unanimously approved.

Niagara County Financial Disclosure Forms: Mike Kless made a motion seconded by Richard Bertrand that will file a lawsuit against Niagara County regarding the denial of our FOIL request to obtain copies of financial disclosure forms from 2013 to 2018. Motion passed unanimously.

Motion made by Sonia Dusza, seconded by Mike Kless to retain the University at Buffalo Law School Civil Liberties & Transparency Clinic to represent our organization in a lawsuit against Niagara County. Motion passed unanimously.

Erie County IDA: Paul Wolf explained the communications he has had with the Erie County IDA, regarding our concern that delinquent IDA loans be handled in public and not through an executive session.

March Sunshine Week Event (March 15-21): Paul Wolf has contacted the new Executive Director of the NYS Committee on Open Government inquiring as to whether she would be willing to speak at our event regarding the Open Meetings Law. A response has not been received as of yet.

Review of 2019 & Goals for 2020: Janet Vito pointed out that one of accomplishments that should be added is that we convinced the Town of Clarence to add back to their meeting agenda hearing from the public. Paul Wolf reviewed proposed goals and projects for 2020.

Meeting Date & Time for 2020: There was discussion at our last meeting to possibly move our meetings to Tuesday nights. Paul Wolf spoke to library staff and was advised that Tuesday nights would not work. We will keep our meetings on Thursday nights at 6:30. We will typically meet

the first Thursday of the month, however our next meeting will be Thursday February 13th at 6:30, at the Williamsville Library, 5571 Main Street.

New Business: West Seneca Supervisor Gary Dickson has invited Paul Wolf to speak about open government to the West Seneca Town Board on Thursday January 23rd at 6:00 pm.

Ed McKee brought up putting together a roster of members for everyone.

Janet Vito pointed out that with our name changing we will need to change our bank account info, bylaws etc.

Joe Kissel will bring information to the next meeting regarding a video camera that he would like the organization to purchase so that we can tape and post online our meetings and events.

Adjourn: Janet Vito made a motion to adjourn seconded by Richard Bertrand. Meeting adjourned at 7:50 pm.

RESTATED CERTIFICATE OF INCORPORATION

OF

Buffalo Niagara Coalition For Open Government, Inc.

Under Section 805 of the Not-for-Profit Corporation Law

The Buffalo Niagara Coalition For Open Government, a corporation organized and existing under the laws of the Not-for-Profit Corporation Law of the State of New York (the "NPCL"), hereby certifies as follows:

1. The name of this Corporation is the Buffalo Niagara Coalition For Open Government, Inc.
2. The original Certificate of Incorporation was filed on March 9, 2018 under the NPCL.
3. In accordance with Section 802 of the NPCL, this restatement of the Certificate of Incorporation was authorized by a vote of the Board of Directors of the Buffalo Niagara Coalition For Open Government on February 13, 2020.
4. This Restated Certificate of Incorporation amends the Certificate of Incorporation as follows:
 - a. Article One – Which currently states the name of the corporation as the Buffalo Niagara Coalition For Open Government, Inc. is amended to the New York State Coalition For Open Government, Inc.
 - b. Article Three – Is amended to include the following language

“The exclusive purposes for which the corporation is organized are as follows: To promote freedom of information and good, fair, just, and open government; To research, investigate and publish reports on government and governmental subdivisions; To promote freedom of

information laws, open meeting laws and meaningful citizen participation in governmental decision making; To make freedom of information law applications; to pursue litigation if necessary to address violations of freedom of information laws, open meeting laws and open government in general. To engage in other lawful activities as to freedom of information and open government; To benefit a class consisting of persons interested in open government and freedom of information laws in New York State; To benefit persons in the community at large interested in such issues by offering volunteering opportunities to seek, investigate and report on open government and freedom of information issues.”

- c. Article Seven – Is amended to state the current names and addresses of the Board of Directors are:

Paul W. Wolf
9 Guinevere Ct.
Getzville, New York 14068

Edward McKee
75 Hobnail Drive
East Amherst, New York 14051

Richard Bertrand
284 Willow Street
Apartment 23
Lockport, New York 14094

Janet Vito
8617 Bonview Terrace
Williamsville, New York 14221

Joseph Kissel
950 East Robinson
North Tonawanda, New York 14120

Michael Kless
87 Payne Ave.
Buffalo, New York 14220

Sonia Dusza
123 Miller Street
North Tonawanda, New York 14120

Larry Vito
8617 Bonview Terrace
Williamsville, New York 14221

Maria Tisby
2154 Parker Blvd.
Tonawanda, New York 14150

- d. Article Nine – Article Nine is amended to add additional language as follows:

“No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Third hereof.

No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under

section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.”

The text of the Certificate of Incorporation is hereby restated, as amended, to read in full as follows:

RESTATED CERTIFICATE OF INCORPORATION
OF
NEW YORK COALITION FOR OPEN GOVERNMENT INC.
Under Section 805 of the Not-for-Profit Corporation Law

I, the undersigned, acting as incorporator of a corporation under the New York Not-for-Profit Corporation Law, do hereby adopt the following Certificate of Incorporation for such corporation.

ARTICLE ONE

The name of the corporation is New York Coalition For Open Government, Inc.

ARTICLE TWO

The corporation is a corporation as defined in subparagraph (5) of paragraph (a) of Section 102 of the Not-for-Profit Corporation Law.

ARTICLE THREE

The exclusive purposes for which the corporation is organized are as follows: To promote freedom of information and good, fair, just, and open government; To research, investigate and publish reports on government and governmental subdivisions; To promote freedom of information laws, open meeting laws and meaningful citizen participation in governmental decision making; To make freedom of information law applications; to pursue litigation if necessary to address violations of freedom of information laws, open meeting laws and open government in general. To engage in other lawful activities as to freedom of information and open government; To benefit a class consisting of persons interested in open government and freedom of information laws in New York State; To benefit persons in the community at large interested in such issues by offering volunteering opportunities to seek, investigate and report on open

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government and freedom of information issues.”

ARTICLE FOUR

The corporation is not formed to engage in any activity or for any purpose requiring consent or approval or any state official, department, board, agency or other body. No consent or approval is required.

ARTICLE FIVE

The corporation is a non-charitable corporation under Section 201 of the Not-for-Profit Corporation Law.

ARTICLE SIX

The office of the corporation is to be located in the County of Erie, State of New York.

ARTICLE SEVEN

The names and addresses of the current directors of the corporation are:

Paul W. Wolf
9 Guinevere Ct.
Getzville, New York 14068

Edward McKee
75 Hobnail Drive
East Amherst, New York 14051

Richard Bertrand
284 Willow Street
Apartment 23
Lockport, New York 14094

Janet Vito
8617 Bonview Terrace
Williamsville, New York 14221

Joseph Kissel
950 East Robinson
North Tonawanda, New York 14120

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87 Payne Ave.
Buffalo, New York 14220

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123 Miller Street
North Tonawanda, New York 14120

Larry Vito
8617 Bonview Terrace
Williamsville, New York 14221

Maria Tisby
2154 Parker Blvd.
Tonawanda, New York 14150

ARTICLE EIGHT

The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The address to which the Secretary of State shall mail a copy of any process accepted on behalf of the corporation is:

Paul W. Wolf
9 Guinevere Ct.
Getzville, New York 14068

ARTICLE NINE

The following language relates to the corporation's tax exempt status and is not a statement of purposes and powers. Consequently, this language does not expand or alter the corporation's purposes or powers set forth in Article Three.

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Third hereof.

No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.”

IN WITNESS WHEREOF, the corporation has caused this Restated Certificate of Incorporation to be duly executed this February 13, 2020.

By

Paul W. Wolf
President

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Town board receives tips on how to be more transparent

January 29, 2020

by TAYLOR NIGRELLI
Editor

The West Seneca Town Board got some pointers on how it can be more open and transparent, at least in the eyes of one local nonpartisan, nonprofit group.

Paul Wolf, the board president of the Buffalo Niagara Coalition for Open Government, gave a presentation to the town board Thursday on methods it can use to become more transparent in how it operates. Some of Wolf's recommendations are already followed by the town. For example, some municipalities don't link to agenda items when they post agendas online. West Seneca does that, although it is not required by the Open Meetings Law.

"The Open Meetings Law is very weak in a lot of ways," Wolf said. "What we advocate for is going above and beyond the Open Meetings Law. It doesn't say a whole lot about posting agendas. Basically, they say if you have a website, as best you can you should post it online."

However, Wolf did suggest that the town make department head reports available to the public in a written form.

Wolf also noted that the law does not mandate that meeting minutes have to be posted online, they just have to be available for public viewing after a certain amount of time. West Seneca, like many municipalities, posts meeting minutes once they have been approved at the following meeting. Wolf suggests that they post draft meeting minutes before they are approved by the town.

"We'd like to see them go up as soon as possible," Wolf said. "The law says that meeting minutes have to be available for two weeks. So, if someone asked for them, you have to give them to them. They don't have to be posted within two weeks. We'd like to see them posted. The sooner they get up the better. A lot of places are two or three months behind on their minutes. That's not fair to the public."

West Seneca's town board meetings have two opportunities for public comment: one early to remark on or question agenda items and one later to bring up any other issue. Some places only have one opportunity – after all the voting takes place. While Wolf believes the town is right to allow residents to comment on or question the agenda items before they're voted on, he believes all public comment should take place early in meetings.

"We like to see it happen early in the meetings," Wolf said. "Some people allow the public to speak at the end when you've already voted and discussed things. That, to us, is kind of pointless. You should want to hear from the public before you vote on something. I know that you do it early in the meetings, which is great. I notice what you do and what a lot of people do is kind of split it up so if you're going to speak on an agenda item, you can talk early in the meeting. But if you want to talk about something that is not on the agenda, you have to wait toward the end of the meeting. We like to see it all happen

early in the meeting. If someone likes to speak and maybe it's not on an agenda item, why make them wait a couple hours until the end of the meeting?"

Executive sessions were also a topic of discussion. Wolf believes municipalities often do not disclose enough details when they break off into these sessions. For example, he said often boards say they are going to discuss 'litigation', which he believes is not specific enough. He believes the specific lawsuit should be named. He believes boards are similarly vague when breaking off to discuss "personnel matters" or "contract negotiations."

"We understand that under the law, you have the right to talk about things in private, that doesn't mean you have to do it," I think it's abused in a lot of ways ...We hope that if you do executive sessions, you do it rarely. You want your motion to be specific enough that the public knows what you're talking about."

Wolf also discussed the matter of financial disclosure forms, which are required in municipalities of 50,000 people or more, a standard West Seneca falls just short of. Wolf noted that although the board is not legally required to release disclosure forms for elected officials, they can decide to do so. In fact, the previous town board elected to do so when passing an update to the town's ethics code in December. These will become available for public viewing in the coming months.

Wolf also went into detail about ways the town website can be improved. He noted that while you can file a Freedom of Information Law request online, you have to go to the town clerk's page to find it. The coalition would like to see that information available on the home page. Additionally, the town asks for the reason why a FOIL request is being filed, which a resident does not legally have to give.

"I notice on your form you ask people to state the reason for their FOIL request," Wolf said. "I don't know if you need to do that, quite honestly. I don't know if you need to know why someone is making a FOIL request. I'm making a request for information because I want it, I don't have to give you an explanation as to why I want it."

Town Clerk Amy Kobler said that she can put the FOIL request link on the home page so it is easier to find. Dickson noted that Chief of Staff Brendon Najm is making updates to the town website.

Wolf also believes the town should make its "notify me" link more prominent on the homepage of the website. This link allows residents to be notified of town board meeting dates.

Wolf noted that West Seneca is more transparent than many other municipalities and more open than it has been in recent years. Wolf said that many local governments will not allow him to speak.

"I've asked to come to speak to some local governments and, believe it or not, they've said no," he said. "We're not interested. You're not on the agenda."

"The fact that the supervisor invited me to speak here is a good thing. It means you folks are interested in this issue."

Councilman Bill Hanley took issue with one of Wolf's comments near the end of the meeting. Wolf described the Dec. 16 town board meeting, where residents were not allowed to speak, as "terrible." Hanley, a member of the town board at that time, viewed that as an unnecessary shot.

"I think we've come a long way in the past few years," Hanley said. "It was all well and good until your two final parting shots on the last board that left, but we haven't seen your report card."

Wolf stated that he thought it was a fair shot at the board.

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"This is the hostility that we get," Wolf said. "You come to point out something and they take a shot right back at you."

Councilman Jeffrey Piekarec, who was not on the board at the time of that meeting, agreed with Wolf's assertion.

"I think you're absolutely right, as someone who wanted to speak at those last two meetings, particularly the one on Dec. 16," Piekarec said. "There should never be an end to public comment at any government meeting."

email: tnigrelli@beenews.com

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Buffalo Niagara Coalition



for Open Government, Inc.

Advocating for timely access to information & meaningful citizen participation

www.nyopengov.org

February 3, 2020

Mark A. Onesi
Acting Chairperson
Niagara County Industrial Development Agency
6311 Inducon Corporate Drive
Samuel M. Ferraro Center, Suite One
Sanborn, New York 14132

Re: Open Government Concerns

Dear Chairperson Onesi:

After reading in the paper that the Niagara County Legislature appointed four new members to the Niagara County IDA, I went to your website to view meeting agendas and minutes. After searching for Niagara County IDA, I ended up at the niagaracountybusiness.com website.

At the niagaracountybusiness.com, I took the following steps:

- Clicked on the About Us link at the top of the site
- Clicked on the drop down link titled Who We Are
- On the Who We Are page, clicked on a link titled Niagara County Industrial Development Agency Board of Directors.
- The link to the Board of Directors, displays the names and titles of Board members, but no other information is provided as far as meeting dates, agendas, minutes or videos
- When I typed in the search term "agenda", the response I received was "no results"
- When I typed in the search term "minutes", a Niagara County IDA link came up which took me to niagaracountybusiness.com/ncida page
- At the NCIDA page there is a link titled "Meeting Materials", when that link is clicked an error message appears. Apparently the link to meeting materials is broken. As is the link for "Compliance Postings"

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- At the NCIDA page there is a link for "Meeting Minutes", which works and does provide copies of your meeting minutes.
- Through additional digging I did find under the heading "Resources" a drop down link to "File Library", which provides meeting agendas and documents for January 2020.

As an experienced website user, I hope that you will put some effort into improving how the public can access information on your site. Just as you have an archive of meeting minutes going back several years there should be an archive of meeting agendas with documents posted on your site. It does not appear according to your posted agendas that the public can speak at your regular board meetings. While not required by law, many public bodies provide an opportunity for the public to be heard at their meetings and the Buffalo Niagara Coalition for Open Government encourages you to do the same.

The projects addressed by your organization are important to the public and we hope that you will consider our suggestions as a way to make your work easier for the public to access. I would be happy to discuss this issue at a Board meeting if you are interested.

Sincerely,

Paul W. Wolf, Esq.

President

Buffalo Niagara Coalition for Open Government

392 Evans Street

Williamsville, New York 14221

(716) 435-4976

Paulwolf2@gmail.com

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https://www.niagara-gazette.com/news/local_news/members-of-republican-city-council-majority-meeting-in-local-cafe/article_ac883ccc-47e8-11ea-9c50-2ffcf26788b.html

Members of Republican city council majority meeting in local cafe

By Rick Pfeiffer rick.pfeiffer@niagara-gazette.com
Feb 5, 2020



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When he was first elected to the Falls City Council, Chris Voccio began a practice of regularly meeting with constituents at local coffee shops.

He called the get togethers "Coffee with Chris."

Now, the newly elected chair of the council is holding a different version of Coffee with Chris.

Voccio, a Republican, and the council's two other GOP members, Kenny Tompkins and John Spanbauer, have taken to huddling in the back room of a Third Street cafe, out of the sight and hearing of the public, to engage in discussion of city business. They call the meetings "caucuses" and say they allow them the opportunity, as members of the same political party, to "discuss issues" that stem from matters coming before the City Council.

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"We look at the (council) agenda to see how we feel about items," Voccio said. "And we think about things we would like to see (on agendas) in the future."

Voccio said the new Republican majority on the City Council, created by the November election of Spanbauer, has been holding caucus meeting since shortly after the body's January 1 reorganization meeting. The new City Council chair said he and Tomkins did not hold caucuses when they were in the minority on the five member council.

"In a small body (like the Falls City Council) I think that it's less important (for the minority to meet) then when you're in the majority," Voccio said. "In a larger body, where there are more members, I think it's more important for the minority to meet (in caucus)."

Voccio said he doesn't believe the caucus meetings should be viewed as unusual or improper. He said the former Democratic majority on the City Council held caucus meetings too.

"Not on a regular basis," said Council Member Andrew Touma, the previous council chair. "There were times we did (meet in caucus). We only met about a dozen times (in two years) and that was mainly around budget time or when there were topics of particular importance."

Touma stressed the Democratic caucuses never tried to make governing decisions in private and said he hoped the Republicans were doing the same.

"They're allowed to meet," Touma said, "and I would be concerned if (the GOP council members) didn't think independently. You can't make decisions behind closed doors."

Voccio said he and his fellow Republicans are not trying to shut the Democratic council members out of the body's decision-making process. He pointed to recent moves by the council to solicit new members for the city's various boards and commissions.

"We're getting input from the community," the council chair said. "And we've shared that with (the Democrats). There's nothing secretive we're discussing."

Touma said he hopes the actions of the GOP caucus stay that way.

"I think we have an open dialogue," Touma said. "As long as we're all privy to the same information. Chris, in the past, didn't seem to take a lot of interest in the boards. This year, he's more interested."

Voccio said he sought advice from Paul Wolf, the head of the Buffalo-Niagara Coalition for Open Government, before he began holding the caucus meetings. He said Wolf advised him that such meetings did not violate the state's Open Meetings Law.

"He gave me some clarification," Voccio said. "I don't believe (the caucuses are) in any way, shape or form a violation of the (Open Meetings) law or the spirit of the law."

"Although you can do it, you don't have to do it," Wolf told the Gazette. "And it's not a good practice."

Voccio also shared with the Gazette a copy of an email exchange with Wolf regarding the caucus meetings and what is and is not permitted under state law. Wolf explained that caucuses can meet to "discuss government business or political business as long as those council members/mayor attending are Republicans. If you invite a Democratic council member or mayor to attend your caucus meeting then the meeting can no longer be a private caucus."

Wolf's final piece of advice to Voccio was: "I suggest being careful in how you use (a caucus). Conducting discussions and government business in public is the better way to go."

Niagara Gazette Events

See All Events Add your event

Tue, Feb 11

Fri, Feb 07

Fri, Feb 07

Fri, Feb 07

Fri, Feb 07

Fi



Josh Groban

The Avalon Ballroom...



FRI
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SAT
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Niagara University Purple Eagles Men's Hockey vs...

Niagara University

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Conga

The Avalon Ballroom...

Roaring Twenties Gala

Americana Conference...

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Niagara U: 2/7 7:00 PM Niagara University Men'...

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**Understanding the Open Meetings Law
&
The Need For Reform**

**March 19, 2020
5:30 pm to 7:30 pm**

**Theodore Roosevelt Inaugural Site
641 Delaware Ave.**

Refreshments Will Be Served!

Kristin O'Neill, Esq., Assistant Director, New York State Committee for
Open Government

Paul Wolf, Esq., President, Buffalo Niagara Coalition for Open Government

**Sponsored by
the Buffalo Niagara Coalition for Open Government, Inc.**

www.nyopengov.org

Next Meeting April 2, 2020
6:30 pm, 5571 Main Street, Williamsville Library

**Understanding the Open Meetings Law
&
The Need For Reform**

**March 19, 2020
5:30 pm to 7:30 pm**

AGENDA

- 1) Check In & Refreshments 5:30 to 6:00
- 2) Welcome by Paul Wolf, President Buffalo Niagara Coalition for Open Government 6:00 to 6:15
- 3) Understanding the Open Meetings Law, Kristin O'Neill 6:15 to 6:45
- 4) The Need for Reform, Paul Wolf 6:45 to 7:00
- 5) Questions 7:00 to 7:30

The Next Buffalo Niagara Coalition for Open Government Meeting is Thursday April 2nd, 6:30 pm at the Williamsville Library, 5571 Main Street. Please Join us!

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