



## EXECUTIVE COUNCIL MEETING MINUTES

October 19, 2023

### Zoom

The Executive Council meeting was held, via Zoom, on Thursday, October 19, 2023, at 7:00 pm (EST). Marvin Dulaney, President called the meeting to order at 7:00 pm and presided. Susan Simms Marsh, Secretary, served as the Secretary.

#### Attendees:

W. Marvin Dulaney, Ida Jones, Aaisha Haykal, Susan Simms Marsh, Valerie Holt, Jeff Banks, Lyman Brodie, Gloria Marshall-Browne Cornelius Bynum, Sundiata Cha-Jua, Deidra Foreman, Jarvis Givens, Lopez Matthews, Gregory Mixon, Kenvi Phillips, Anita Shepherd, David Walton, Tara White, and Sylvia Cyrus.

The above constituting a majority and quorum of the Executive Council necessary for the transaction of business.

### OTHER ATTENDEES

Attorney Fred Cooke  
Brenda Frinks  
Hazel Gillis  
George Gillis  
Faith Mison  
Juanita Powell-Williams, Esq.  
Ronald Saunders  
David Wilkins

### ADOPTION OF THE AGENDA

President Dulaney shared an edited agenda on the screen and requested the adoption of the agenda based upon the Constitution and Bylaws.

**Motion:** It was moved by Cornelious Bynum and seconded to adopt the agenda as displayed on the screen.

Jarvis Givens raised point of order regarding the agenda displayed on the screen being different from the agenda circulated by the Secretary.

The President responded that the agenda on the screen was based on the Constitution and Bylaws. Jarvis Givens asked the President to share what was removed from the agenda

circulated by the Secretary and provide an explanation as to why items were removed from the agenda circulated by the Secretary.

The President responded added to the agenda was the resignation by Omar Eaton Martinez and removed from the agenda the minutes from a meeting that was not a legal meeting of the Association. At the request of the President, the Executive Director shared on the screen ASALH Constitution and Bylaws, and the President read Bylaws Section 2.f. The President shared that the September 11, 2023, minutes were removed from the agenda because it was not a legal meeting per the Bylaws and there was no need to include the minutes.

Jarvis Givens raised a point of order regarding September 11, 2023, meeting. There was discussion regarding the legality of the September 11, 2023, meeting.

The President asked Attorney Fred Cooke to weight in on this issue. There was discussion regarding Attorney Fred Cooke putting his opinions in writing. Jeff Banks said, “Fred is unable to put anything in writing.” Attorney Fred Cooke responded that “he is not unable to put anything in writing.” When asked if he put his opinions in writing, Attorney Fred Cooke responded “absolutely, sir.” Attorney Fred Cooke stated, “I have two additional legal opinions dated October 17, that I assume you will eventually see. But I have put it in writing . . .”

Attorney Fred Cooke stated “the bylaws of ASALH provide that meetings of the Executive Council can be called by the Executive Committee. If the Executive Committee does not call a meeting of the Executive Council beyond the required meetings, that meeting is not a proper meeting. It is as simple as that. It’s not that the Executive Council can’t meet and talk and do whatever they want to do. It’s just not a meeting that this body, the Executive Council, can ratify or approve the minutes, because it was not the work of the Executive Council.” “Now, if the Executive Council members who had that meeting want to have a properly called meeting and do the same thing, they’re free to do that. There’s no reason . . . that they can’t do that. It’s just that as . . . currently constructed that was not a meeting done in conformity with the bylaws of the organization.” “The fact that rules weren’t followed in the past is not a justification to not follow rules in the future.”

There was further discussion and comments regarding the September 11, 2023, meeting, properly called meetings, valid meetings, orderly procedures, Executive Council did not vote to hire an attorney for the matter under discussion, and the circulation of the agenda displayed on the screen prior to the meeting. Regarding the September 11, 2023, meeting Susan Simms Marsh stated “a point of correction, with regard to a statement made by Valerie Holt. I did not in any way opine on the legitimacy or legality of the meeting.” “I did not provide an opinion on the legality of the September 11<sup>th</sup> meeting.”

Prior to taking the vote on the motion to adopt the agenda as displayed on the screen, the Secretary and others shared information regarding proxy.

## Proxy

- Gladys Gary Vaughn, via email to the Secretary, granted proxy to Jarvis Givens. — Email: “Jarvis, I will not be in attendance at tonight’s Executive Council meeting. I am granting you my proxy to vote on my behalf on issues that may come before the Council tonight, October 19, 2023, that require a vote.”
- Denise Barnes, via email to the Secretary, granted proxy to Sundiata Cha-Jua. —Email: “I am not able to attend tonight’s meeting. I have given my proxy to Sundiata.”
- Gloria Marshall-Browne, via email to the Secretary, granted proxy to Jarvis Givens. — Email: “I may need to be in and out of this meeting due to a book deadline. If a vote occurs and I’m unavailable, Jarvis Givens has my proxy.”
- Aaisha Haykal may be late and granted proxy to Anita Shepherd. Aaisha Haykal has joined the meeting.
- Zebulon Milevsky will not be in attendance and granted proxy to Deidra Foreman.
- Jeff Banks granted proxy to Jarvis Givens and departed the meeting.
- Executive Director received a text message from Eric Jackson, and he granted proxy to Sundiata Cha-Jua.
- Sundiata Cha-Jua received an email from Eric Jackson, and he granted proxy to Sundiata Cha-Jua.

**Motion:** It was moved by Cornelious Bynum and seconded to adopt the agenda as displayed on the screen. **The motion passed.**

Jarvis Givens raised a point of information and asked the Executive Director if all Executive Council members were in good standing. The Executive Director stated that “according to our bylaws Executive Council members must pay. There are two main considerations for Executive Council members to be in good standing. One is the payment assessments and the other well, . . . that’s really the main one in terms of good standing.” “The Executive Council also has a standing rule that those assessments must be paid by the end of the year. So, although there are members of the Executive Council whose assessments have not been paid in their entirety, according to the standing rules that are on the books for the Executive Council, they are in good standing until the end of the year. And that is when they are determined not in good standing, and they are removed from the Executive Council.”

The President stated Attorney Fred Cooke was on the meeting for the first two items on the agenda and he would depart the meeting for the third item on the agenda.

Valerie Holt asked if proxies must be in writing.

Attorney Fred Cooke shared that Bylaws Section 1 says that in accordance with Robert’s Rules of Order voting by proxy shall be permitted on business meeting agenda items determined by the Executive Council to be of critical significance of the Association. Voting on action items outside of the three regular Executive Council meetings can be done by telephone, fax or email according to the procedures set forth by the Executive Committee.

Executive Director shared there is no standing rule that requires a proxy to be in writing.

Gloria Browne-Marshall departed the meeting.

## **RESIGNATION OF OMAR EATON-MARTINEZ**

President Dulaney presented the resignation of Executive Council member Omar Eaton-Martinez.

**Motion:** It was moved by Sundiata Cha-Jua and seconded to accept Omar Eaton-Martinez resignation from the Executive Council. **The motion passed.**

## **MINUTES**

The Secretary presented the July 20, 2023, Executive Council Executive Session Meeting minutes for approval.

**Motion:** It was moved by Susan Simms Marsh and seconded to approve the July 20, 2023, Executive Council Executive Session Meeting minutes. **The motion passed.**

The Secretary presented the August 17, 2023, Executive Council Meeting minutes for approval.

**Motion:** It was moved by Susan Simms Marsh and seconded to approve the August 17, 2023, Executive Council Meeting minutes. **The motion passed.**

The Secretary presented the September 20, 2023, Executive Council Meeting minutes for approval. There was a correction to the motion regarding Freedom Schools. The Freedom Schools be considered our number one priority and the Program Cluster be charged with the implementation.

**Motion:** It was moved by Susan Simms Marsh and seconded to approve the September 20, 2023; Executive Council Meeting minutes as corrected. **The motion passed.**

The Secretary presented the September 28, 2023, Executive Council Meeting minutes.

**Motion:** It was moved by David Walton and seconded to approve the September 28, 2023, Executive Council Meeting minutes. **The motion passed.**

Regarding the September 28, 2023, Executive Council Meeting minutes, Susan Simms Marsh asked that her statement be reflected in the October 19, 2023, Executive Council Meeting minutes as it related to the approval of the September 28, 2023, Executive Council Meeting minutes.

**SUSAN SIMMS MARSH STATEMENT**  
**October 19, 2023**

**September 28, 2023 Executive Council Meeting Minutes**

Before the Executive Council, today, is the approval of the September 28, 2023 Executive Council Meeting Minutes.

During the meeting, as it relates to the Status of Search for Parliamentarian, President Dulaney shared Dr. Ramona Marsalis-Hill will serve as the Parliamentarian.

Pursuant to ASALH Bylaws Section 1. Conduct of Meetings, it states “the Executive Council may, at its discretion, appoint an Official Parliamentarian, who shall hold office for a term of one (1) year.

Accordingly, it is my view that the Executive Council must vote on the appointment of an Official Parliamentarian.

The President excused Attorney Fred Cooke from the meeting, and he departed the meeting.

**SEARCH FOR AN ATTORNEY REPORT**

**(WRITTEN REPORT)**

Regarding the search for an attorney for the Executive Council to hire as provided for in the motion approved by the membership during the September 18, 2023, Virtual Annual Business meeting, Susan Simms Marsh presented the written report that was previously emailed to the Executive Council. Susan Simms Marsh prefaced the presentation of the report that at the September 20, 2023 and September 28, 2023 Executive Council Meeting, she pointed out that she volunteered, not exclusively, to contact attorneys and law firms as it related to the motion approved by the membership during September 18<sup>th</sup> Annual Business meeting relative to the two areas of focus that are to be brought back to the membership at the October 30<sup>th</sup> meeting. The report included the names of attorneys and law firms and the source of the name, which is who provided the name as well as a brief description/overview. As part of the attorney search, information regarding the law firm, governance and nonprofit practice areas and attorney was reviewed.

- Susan Simms Marsh contacted Shawn Wright who provided three names based on recommendations from partners at Blank Rome Law Firm.
- Susan Simms Marsh called Ruth Eisenberg and they exchanged voicemails, but she has not spoken to Ruth Eisenberg.
- Susan Simms Marsh called Holly Schadler, but she did not return the call.
- Susan Simms Marsh called O’Kelly McWilliams.
- Susan Simms Marsh did not contact Michele McKinnon, Janice Ryan, and Fred Cooke.

**Motion:** It was moved by Susan Simms Marsh and seconded that the Executive Council engage the legal services of Holland & Knight Law Firm for the purpose of review and preparing a

report and opinion as it relates to the motion that was approved by the membership at the September 18, 2023, Virtual Business Meeting.

There were questions and discussion regarding the report and recommendation.

Lopez Matthews asked if there was problem with the lead attorney being licensed in New York. Susan Simms Marsh responded no, as there are attorneys who would be working on the matter and license to practice law in the District of Columbia.

Anita Shepherd expressed concern that these attorneys have not done the work, and some work has been done by Fred. She asked why change at this at this point as he has provided direction, and we are getting close October 30<sup>th</sup>? She believes a lot of time has gone by to the disadvantage to the membership.

Greg Mixon agreed with Anita Shepherd regarding the timeline. Greg Mixon had a question regarding the experience of each attorney in the area of nonprofit that Susan Simms Marsh looked at.

The President asked Susan Simms Marsh if she wanted to respond to the two questions.

Susan Simms Marsh responded that Fred Cooke was hired by the Executive Director for a limited focus area that is reflected in the minutes. She stated, "He was asked to take on a very narrow assignment by the Executive Director and the assignment relates to whether Marvin Dulaney can move forward with the Executive Council meeting as ASALH President." "He later provided, I am assuming he provided . . . there was an email circulated by the President in response to an email from the Vice President and it was attributed to Fred Cooke, and so we know he has already opined on the first prong of the motion that was put forth and approved by the membership as it relates to presidency."

In response to Greg Mixon's questions, Susan Simms Marsh shared that as part of the review of attorneys, there are two things that were very important. An attorney and law firm with experience in nonprofit law and governance. Susan Simms Marsh shared that she has talked about governance on several occasions since becoming a member of the Executive Council. As it related to Holland & Knight, the firm has a section of attorneys that provide legal services in non-profit corporate governance which is critical to the Association.

There was further discussion regarding the existing timeline in light of the October 30<sup>th</sup> membership meeting, hiring Fred Cooke for the assignment, the statement by the Susan Simms Marsh regarding Attorney Fred Cooke's limited focus assignment, the hiring of Attorney Fred Cooke for \$5000 as opposed to \$20,000 and having \$15,000 more to spend for an attorney and potential conflict of interest because Attorney Fred Cooke previewed his opinion with the Executive Council.

The President asked Susan Simms Marsh if should was going to respond.

Susan Simms Marsh shared the following:

- The motion that was made at the September 20<sup>th</sup> Executive Council meeting dealt with hiring an attorney not to exceed \$20,000, relative to the matter that was voted upon by the membership; therefore, the \$5000 does not come out of the \$20,000.
- Attorney Fred Cooke has not been given all the documentation because I have not given him documents, not that Susan Simms Marsh is exclusively responsible for providing documents. The Executive Council voted on several sets of minutes in addition to several other documents that have not been given to him.
- It is the will of the Executive Council as to the decision on the attorney that the Executive Council wants to hire.
- Attorney Fred Cooke has previewed his opinion on the matter without having all the documentation, including minutes, policies, and procedures the Executive Council and the Association have approved.
- Regarding the Executive Council member not recalling Attorney Fred Cooke's statement that he was asked by the Executive Director to take on a very narrow assignment, the recording from the September 28, 2023, Executive Council meeting was available, and the language was taken from the recording.

Vice President of Membership shared that eight days is not a long time for a law firm in terms of research. It is not beyond the scope of reason that the law firm can present a report within a week.

Sundiata Cha-Jua shared that the matters that need to be addressed turn on the Constitution and Bylaws and Robert's Rules of Order. The two questions to be addressed are: 1) whether Marvin could rescind a resignation before it is approved by the Executive Council; and 2) whether it was a legal action to leave Darryl Scott and Moses Massenburg on the ballot. The documents that you need to look at are the Constitution and Bylaws and Robert's Rules of Order. What is said in the Executive Council meeting and the minutes are irrelevant to the two questions.

Anita Shepherd asked if Marvin Dulaney has the right to hire his own attorney. Regardless of what the Executive Council does, Executive Council members have the right to bring their own attorney into a situation.

Valerie Holt shared her concern is not Attorney Fred Cooke's qualifications, but it is about him already rendering an opinion.

Anita Shepherd shared that the Executive Director has in her line of authority to spend up to \$5000 without the Executive Council approval.

Lopez Matthews shared he believes we need someone fresh, someone new who starts with all the documentation, who does the research and renders an unbiased opinion.

The President shared that in defense of Attorney Fred Cooke he has been meeting with him and provided him a host of materials. He has our handbook and bylaws. He knows what is going on.

Greg Mixon shared that in Jacksonville, we asked Sylvia to help find a lawyer.

Vice President of Membership shared from historical perspective historians are trafficking document and believes lawyers are also trafficking documents. Documents are important as they have weight and merit. The lawyer needs all the records, minutes, documents, recordings, and materials that are held by this organization to weigh the data.

Susan Simms Marsh shared from a legal perspective after practicing law for more 35 years and in house counsel for 25 years working with outside counsel how critical it is for outside counsel to have all the documents.

The President called the question and asked all in favor of hiring Holland & Knight to raise their hand in zoom.

Susan Simms Marsh called for a Roll Call vote.

NAME	YES	NO
Valerie Holt	X	
Anita Shepherd		X
David Walton		X
Deidra Foreman		X
Gregory Mixon		X
Lyman Brodie		X
Sundiata Cha-Jua		X
Aaisha Haykal	X	
Cornelious Bynum		X
Ida Jones	X	
Jarvis Givens	X	
Kenvi Phillips	X	
Lopez Matthews	X	
Tara White	X	
Susan Simms Marsh	X	
Zebulon Miletsky		Deidra Foreman Proxy-X
Eric Jackson		Sundiata Cha-Jua Proxy-X
Denise Barnes		Sundiata Cha-Jua Proxy-X
Gladys Gary Vaughn	Jarvis Givens Proxy-X	
Jeff Banks	Jarvis Givens Proxy-X	
Gloria Marshall-Browne	Jarvis Givens Proxy-X	

12 Yes and 10 No. **The motion passed.**

David Walton had a point of clarification. Is there a set of questions that we are giving to the attorney we hire? Is there a due date that we are giving the attorney so that we can then consider their recommendations and be prepared for membership by the end of the month?



Susan Simms Marsh responded that the information that has been given to Holland & Knight is what was shared as part of my report. Once the Executive Director execute the engagement letter, I will have a telephone call with Holland & Knight tomorrow.

Anita Shepherd asked the ethnicity of O'Kelley McWilliams.

Susan Simms Marsh responded O'Kelley is an African American and a partner.

Valerie Holt shared Holland & Knight is a prominent law firm in the District of Columbia. She knows the firm for their bond work in the District of Columbia and the airport authority the firm included Black partners. The firm is very conscious regarding diversity and inclusion.

Anita Shepherd asked if this changes our commitment about October 30<sup>th</sup>.

Sundiata Cha-Jua responded no it does not.

Susan Simms Marsh responded we must have a meeting on October 30<sup>th</sup> as that is what was voted on.

The President asked when they will meet with us.

Susan Simms Marsh responded that she did not know as she will need to have conversation with Holland & Knight. After her conversation, she will communicate to the Executive Council.

David Walton emphasized based upon the questions, the only person that should be communicating with them is Sister Susan Simms Marsh. No one else should be communicating with them or that will raise the same issue we had with Brother Cooke.

Susan Simms Marsh shared that she would provide the Executive Council with the list of all documents provided to Holland & Knight.

**Motion:** It was moved by Valerie Holt and seconded that the meeting be adjourned. **The motion passed.**

The meeting adjourned 8:44 pm.

Prepared By

Susan Simms Marsh  
Secretary