

Educational Facilities Task Force Agenda

Regular Meeting: October 20, 2022, 7:00 pm

Zoom Link: https://us06web.zoom.us/webinar/register/WN_EOrjpcpXR8SveLQDlcWWKA

- I. Welcome
- II. Open Meetings Act Violation
- III. Approval of Past Minutes: 10/15/2020, 02/18/2021, 03/30/2021, 04/15/2021, 04/21/2022, 08/18/2022, 09/15/2022
- IV. Appointment of Record Keeper
- V. Current status of Hyattsville Elementary School
 - a. ACF package was approved by the County Council on 10/18/2022
 - i. Timeline
 - ii. Swing Space
- VI. Current status of Hyattsville Middle School
 - a. Jason Washington will be providing the community with an update and answering questions
- VII. New business for next meeting: November 17, 2022, 7 pm
- VIII. Adjournment

LAWRENCE J. HOGAN, JR.
Governor

BOYD K. RUTHERFORD
Lt. Governor



LYNN MARSHALL, ESQ.
CHAIR

JACOB ALTSHULER, ESQ.
VACANT

STATE OF MARYLAND
OPEN MEETINGS COMPLIANCE BOARD

16 Official Opinions of the Compliance Board 178 (2022)

October 12, 2022

Hyattsville Educational Facilities Task Force

The Complainant alleges that the Hyattsville Educational Facilities Task Force (the “Task Force”) violated the Open Meetings Act (the “Act”) by failing to timely prepare minutes and by failing to provide reasonable advance notice of a rescheduled meeting. The Task Force concedes that it failed to timely prepare many sets of minutes but asserts that it complied with the Act with respect to notice of the rescheduled meeting. For the reasons that follow, we agree that the Task Force satisfied the Act’s notice requirement but find that the body repeatedly violated the Act’s requirement to prepare minutes “as soon as practicable” after a meeting. § 3-306(b).¹

A. Notice of rescheduled meeting

The Task Force originally was scheduled to meet virtually on June 16, 2022, but cancelled the meeting the day before when it became apparent that a quorum would not be able to attend. On June 17, the Task Force chair emailed the other members and proposed that the body meet at 7:30 p.m. June 22. At 9:30 a.m. on June 21, the chair was still trying to confirm that a quorum would be available the following day. At 11:45 a.m.—having apparently determined that a quorum could attend—the chair sent city officials an agenda and a link to access the June 22 virtual meeting. By 1:46 p.m. on June 21, notice of the June 22 meeting had been posted to the Hyattsville website and public calendar. Notice had also been sent via the City’s text and email messaging services.

The Complainant argues that the Task Force violated the Act by failing to provide adequate notice of the June 22 meeting. “The Act provides that, before meeting in open or closed session, a public body ‘shall give reasonable advance notice of the session.’” 16 *OMCB Opinions* 1, 1 (2022) (quoting § 3-302(a)). When determining whether a public body has satisfied this mandate, we consider both the timing and the method of giving notice. As to timing, we have said that “the touchstone of ‘reasonableness’ is whether a public body [has] give[n] notice of a future meeting as soon as is practicable after it has

¹ Statutory references are to the General Provisions Article of the Maryland Annotated Code.

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fixed the date, time, and place of the meeting.” 5 *OMCB Opinions* 83, 84 (2006). “A public body has not provided ‘reasonable advance notice’ if it knew the deadline by which it needed to meet on a certain matter and delayed setting the date.” 8 *OMCB Opinions* 76, 80 (2012) (quoting 5 *OMCB Opinions* 139, 143 (2007)).

As for the method of giving notice, “the Act ‘is flexible,’ ‘particularly where exigent circumstances require that a public body convene on short notice.’” 15 *OMCB Opinions* 136, 138 (2021) (quoting 8 *OMCB Opinions* 137, 143 (2013)). “Thus, ‘[t]he ‘reasonableness’ of the public notice given is to be assessed in light of the circumstances making the meeting necessary.’” *Id.* (quoting 8 *OMCB Opinions* at 143). “In every circumstance, however, the public body has an affirmative duty to provide such notice as it reasonably can.” 8 *OMCB Opinions* at 143; *see also* 1 *OMCB Opinions* 38, 39 (1993) (noting that, when “a meeting is scheduled on short notice,” the public body “must provide the best public notice feasible under the circumstances”). “When a meeting must be called on an urgent basis, the public body may need to take extra measures to provide the best notice feasible under the circumstances.” 10 *OMCB Opinions* 22, 28 (2016); *see also* 9 *OMCB Opinions* 110, 115 (2014) (“[L]ast-minute meetings require the public body to make extra efforts to get the word out to the press, and ideally to the members of the public, who follow its activities.”).

Here, we do not know how urgently the Task Force needed to reschedule its meeting when it became apparent that a quorum could not attend the June 16, 2022 meeting. The submissions do not indicate what items of business were pending, though the Task Force included with its response a June 15 email in which the chair said that the Task Force “need[ed] to meet soon.” We assume, then, for purposes of our analysis, that the June 22 meeting was scheduled to address an urgent matter, and we consider whether, based on that urgency, the notice the Task Force provided was reasonable.

In arguing that the notice was deficient, the Complainant emphasizes that the meeting details did not appear in the public calendar in the agenda packet for the City Council’s June 21 meeting, nor did the meeting details appear in a June 21 Facebook post about City meetings scheduled for that week. But, according to the Task Force, city staff prepared the City Council’s agenda packet and the Facebook post before the Task Force had confirmed its June 22 meeting date. Nothing in the record indicates that the Task Force deliberately delayed setting that date. We thus find no violation based on the Task Force’s failure to provide notice through the City Council’s June 21 meeting agenda or the June 21 Facebook post.

As to the methods the Task Force *did* employ, we have said that “simply posting a notice on [a] public body’s website shortly before the meeting is likely not effective,” as “a public body cannot expect the public to continuously check its website.” 9 *OMCB Opinions* 199, 200 (2014). In this case, however, the Task Force not only posted notice to

the City’s web site and public calendar but sent notice via the City’s text and email messaging services.² And staff provided this notice within hours of the Task Force confirming the June 22 meeting date and time. Thus, it appears that the Task Force provided notice as soon as practicable, *see* 5 *OMCB Opinions* at 84, and that its methods of providing notice were, in combination, reasonable under the circumstances, 15 *OMCB Opinions* at 138.

In the future, when faced with the need to reschedule a meeting urgently, the Task Force might consider “post[ing] that expectation on [the City’s] website and alert[ing] the public to watch the website for details” about the specific date and time of the meeting. 9 *OMCB Opinions* 125, 126 (2014). If interested attendees have already registered for the meeting being rescheduled, the Task Force might also, as the Complainant suggests, alert those registrants of the new date by text or email, as those registrants might not have subscribed to the City of Hyattsville’s text and email lists. Because we do not know if the Task Force’s staff has the capacity to accomplish these tasks, however, we cannot conclude that the failure to pursue them here was a violation of the Act. *See* 1 *OMCB Opinions* at 39 (requiring that a public body provide “the best public notice *feasible* under the circumstances”) (emphasis added). Under the circumstances known to us, we conclude that the Task Force provided reasonable advance notice.

B. Minutes

As noted above, the Complainant alleges, and the Task Force concedes, that the body has failed to prepare minutes in a timely manner. The Act provides generally that, “as soon as practicable after a public body meets, it shall have minutes of its session prepared.” § 3-306(b)(1). We have interpreted this provision to permit a public body “to take a reasonable amount of time to review draft minutes for accuracy and to approve the minutes.” 2 *OMCB Opinions* 87, 88 (1999). Thus, “[a]s a general rule, minutes should be available on a cycle that parallels a public body’s meetings, with the only lag time being that necessary for drafting and review.” 6 *OMCB Opinions* 161, 162 (2009). “Public bodies that meet monthly generally comply with that requirement by adopting minutes at each meeting.” 8 *OMCB Opinions* 176, 177 (2013). But we have cautioned that, “when the gaps between its meetings will be long,” a public body should “consider alternative ways of adopting minutes.” 8 *OMCB Opinions* 150, 160 (2013); *see also* 16 *OMCB Opinions* 69, 71 (2022) (finding a violation of the Act based on a four month delay between a meeting and the approval of that meeting’s minutes); 15 *OMCB Opinions* 184, 191 (2021) (same); 8 *OMCB Opinions* at 177 (noting that a public body that meets only quarterly “should find an alternative way of adopting minutes so that people who could not attend the meeting do not have to wait three months to find out what the public body did”); 8

² The Complainant asserts that she did not receive notice of the new meeting date, despite having registered for the June 16 virtual meeting. Apparently, the Complainant had not signed up to receive the City’s texts and emails.

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OMCB Opinions 111, 111-12 (2012) (disagreeing with the suggestion “that a delay of three months would be generally acceptable”); 8 *OMCB Opinions* 32, 34 (2012) (commending a public body for approving minutes in open meetings but “encourag[ing] it to use other methods of approval when the period between meetings becomes excessive”); 6 *OMCB Opinions* 85, 88 (2009) (noting that “routine delays of several months would be unlawful”).

Here, the Task Force admits that, as of mid-September, the body had not yet prepared minutes for at least nine meetings between March 20, 2019, and April 15, 2021. Such lengthy delays—ranging from four months to nearly three-and-a-half years—plainly violate the Act.

Conclusion

We conclude that the Task Force provided reasonable advance notice of a rescheduled meeting. But we also find that the body has violated § 3-306(b)(1) by failing to prepare minutes within a reasonable amount of time. This opinion is subject to the acknowledgment and announcement requirement of § 3-211.

Open Meetings Compliance Board

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