

EFTF 10/20/22 7pm

Attendees:

- Justine Christianson
- Kat Schooley
- John Imahori
- Dan Broder
- Joanne Waszczak

7pm business

- Dan acknowledges violation of open meetings act due to backlogged meeting minutes which were not approved or presented/prepared for the committee in an appropriate amount of time
- Kat becomes secretary (moved by Justine, seconded by Kat)
- Previous backlogged meeting minutes accepted
- Dan: PG County Council passed ACF Phase 2 package – has been in the works for almost a decade! Next steps:
 - o Issue of swing space – what is the status of the swing space coordinator's plans?
 - o Engage neighbors
 - o Talk to City Council/have a discussion about community logistics (staging, movement of equipment, etc)
- Joanne: wants EFTF to brief council – info briefing or discussion? What issues are we able to bring in when talking to Jason Washington
- Discussion points
 - o Site logistics?
 - would Gilbane have info to bring to the table? (design teams will most likely change for this next round)
 - Jim: acknowledging a tight site, perhaps an undeveloped city parcel could serve staging. Still needs to be examined whether it would benefit the project. City will meet with PGCPs in the next week or two to follow up.
 - Dan: Have street closures or adjacent impacts been discussed?
 - Claire Panak: City should address how to improve streets around the new building so kids can have safe routes to get to the new building
 - Dan: pass these concerns onto the design team
 - o Swing space
 - Justine: Would the new boundary study surface open/vacant schools for swinging options?
 - Dan: would like to have a list of options presented so the community can provide feedback

7:30 Jason Washington joins

HMS Update (Jason Washington)

- School is on time, currently working on grading
- 162,000 SF for 1200 students. Targeted initial enrollment is 80% ~1000 students

- Amenities include: Full community use of campus facilities
 - Solar Ready
 - Black Box Theater
 - Outdoor Classroom
 - Fully wireless Campus
 - STEAM Lab
 - LEED Silver equivalence
 - Open concept media center
 - Heightened stormwater management controls
 - Portable Performance Stage
- Schedule
 - Building is water tight, interior finishes can start beginning 2023
 - HVAC start up mid February
 - Commissioning begins April '23
 - Final AHJ Inspections and FFE install May '23
 - Project Readiness 7/15/23
- Construction Overview
 - Complete: Exterior wall panel installation, TPO roofing installation, primary and secondary steel, interior CMU block construction
 - In Progress: Exterior window installation, interior stud wall framing, interior MEPFE rough ins, main mech and electrical room rough-ins, parking lot grading, underground site utilities

Construction Overview



- Spaces target various learning modalities, stage will be maintained by school
- 2 collab learning spaces per floor

Questions

- Justine: Explain traffic patterns on site?
 - Separate entrances for car/bus traffic
 - Second entrance off 42nd was studied, topography was difficult and needed the space for SWM
 - All buses can stack on site

- Car drop off is set up to enter Oglethorpe and to drop off at curb at the front of the school. Sidewalk separates car drop off from bus so that students do not cross buses
- 144 parking spaces were provided, bus lot can be extra parking space during non-bus hours
- Mandatory referral required additional pedestrian crosswalks and City requested fence go all the way down 42nd so that people don't stop on 42nd to drop kids off
- Additional fencing was added to ensure all entries to building go through secure vestibule (more stringent requirements after Uvalde). There will be a side entrance with a gate with a camera and windows to maintain oversight
- Oglethorpe will still be one-way, signage will be added
- Joanne: Tell us more about the STEAM lab? Bicycle parking? Truck circulation issues with HMS?
 - 2 bike racks will be provided at the front of the school within the open courtyard at the entrance
 - STEAM lab: new program PGCPs is starting. Woodworking, robotics, cord reels, 3d printer, maker space type amenities
 - Trucks: ground under school had some issues – had to remove unsuitable soils. This is being done piece meal. Bring new soil, haul off bad soil. Independent contractors (driving trucks) are being stopped before leaving site and directed to drive correct route. Most of site movement is completed so truck traffic should reduce in general.
- Dan: Swing space for HES? Understanding that there is a designated swing space coordinator for schools, was there also a plan that was submitted for each school in the Phase 2 package
 - As part of Phase 2 advisor package, did a strategic master plan that takes into account next 15 years of potential school system projects. For HMS, the amount of work required for the modulars was not planned for (SWM, plumbing, etc) – it's like building a permanent building but cheaper. Other swing space was being worked on in the mean time so there is space available.

8:09 connection issues

- There's a team working on this (Dr. Goldson and her academic programming team) and the plan will be in place late this spring/summer well in advance of phase 2 starting. Construction would start until fall 2024. Target date for phase 2 schools would be opening fall 2026.
- PGCPs would be targeting at least a year ahead of time to have a swing space plan in place (

8:15 connection issues

- Tomorrow, procurement is being kicked off for phase 2.
 - 4 elementary schools, two k-8s that will directly impact 13 schools
 - Targeted capacity enrollment for HES is between 650-700, all other ES will be 850
 - Down select to 3 developers in Jan/Feb, final selection made in late summer (August)
 - April 2024, contract would be settled, assume design would be far along and permitting would start as approval of design goes

- Groundbreaking might be August 2024 – construction would most likely be 18-20 months, with opening in Fall 2026
- All these dates could slide to 2025. If July 1 agreement is not reached, state can remove funding and this whole deal could stall out. Everything will be moving to meet that target deadline.

8:20 connection issues

- HES would most likely be a modular build to help with timeline
 - PGCPs is expecting subsurface parking to be part of this HES package and want to make sure the building fits with the character of the community
 - Outdoor area may need to be on the roof and may not be accessible outside of school hours
- Dan: Would a Phase 3 ACF package be likely?
- Jason: this is the last guaranteed P3 round. We are here because of the state contribution. State gave 50% towards process (sight unseen). They have committed 25 million for the next 30 years. PG is matching it. This is not financially stable for a full system overhaul. The cost and financing is made possible for these current packages because of the current geo/political things happening, etc. Affordability is tied to the market.
 - Jason: PGCPs is now having discussions with maintenance team about what their responsibilities are for these schools – it is none. Current contract has Honeywell responsible for building maintenance (paint, filters, etc). PGCPs is responsible for snow and pest control and replacement of interactive boards and FFE. This is where the value lies. PGCPs doesn't have to staff and take care of these buildings for the next 30 years.
 - Will we get a dinosaur back at the end of the 30 years? No, they are putting a reserve in to replace everything in the school in year 20/25.
 - Jason: PGCPs will carve out 10% of the equity for residents to participate – business owners/residents would get shares and be limited partners in the development team. You would get part of the return (this is a requirement for Phase 2). It will be done up to \$5 million. These are your tax dollars at work and folks should be able to participate in the equity building.
- Claire Panak: Does PGCPs expect HES to hit its new capacity? How far out is student enrollment anticipated?
- Jason: Last year enrollment was 440 (SRC is 406), new build probably 650 (HMS was 733 – new HMS will have capacity for 1200 students, maybe August would have 850). Neither should be at risk of being overcrowded in 2 years. Universal PK is being considered – all new schools will have 4 PK classrooms. (this won't solve the full need, but it's being considered in the new build)
- PGCPs is in the process of getting an MOU with the state – they have been a good partner and have helped in the decision making process.

- Anticipating 8-10 teams to be interested in RFP, will help ensure getting good value and good design. Really looking to an engagement piece in with the selected team so they can have conversations with the community. Possible during procurement so all teams can engage and take those things into account into their designs.
- Will make sure that tours are possible once the building is complete enough to be safe
- Next few weeks will be doing an RFP for a muralist – on top of server at the school. Will be selected by the Visual Arts team, maybe EFTF will also get to see this. It would be put on a substrate and mounted.
 - o There would need to be an initial sketch, 3 meetings, ideally have it installed and in place before the schools open
 - o Stuart mentioned that he has connections to a good number of talented artists that he can distribute the RFP to.
- Anticipating update on Phase 2 on Feb/March 2023

Next meeting Nov 17th.

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

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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

Lynn Marshall, Esq.

Jacob Altshuler, Esq.