

OPEN MEETINGS COMPLIANCE BOARD MEETING
OCTOBER 12, 2007 - MINUTES

Attendance / Opening Remarks

The Open Meetings Compliance Board met on Friday, October 12, 2007, at 10:00 a.m. at the central Office of the Attorney General in Baltimore. In attendance were: Compliance Board members Courtney McKeldin and Tyler Webb; the Compliance Board's counsel, Assistant Attorneys General Jack Schwartz and William Varga; and Kathleen Izdebski, support staff with the Attorney General's Office.

Members of the public in attendance were: Thomas Marquardt, Executive Editor of *The Capital* and *Gazette* newspapers, representing the Maryland-Delaware-D.C. Press Association; Thomas Reynolds, with the Maryland Municipal League; and Charlett Bundy, with the Washington Suburban Sanitary Commission.

Jack Schwartz explained that the purpose of the meeting was to give staff direction in finalizing the Compliance Board's 15th Annual Report to the Governor and General Assembly. A draft report prepared by staff was distributed for discussion. Mr. Schwartz noted that there was nothing unusual in the statistics summarizing the types of complaints handled during fiscal year 2007. Discussion turned to legislative proposals.

Legislative Agenda

While the Compliance Board has recommended to the Legislature various amendments to the Open Meetings Act in past annual reports, the consensus of the Board was that it need not propose any changes this year. Any major change would need to be developed through the collaboration of various stakeholders, and that has not occurred. However, the Compliance Board did evaluate suggestions that had been submitted by third parties.

As part of a complaint against the State Biosolids (Sewage Sludge) Task Force, Ms. Michelle Fluss had submitted two legislative recommendations, which the Compliance Board agreed to consider separately, outside the context of the complaint. First discussed was her suggestion that the law require that the membership of public bodies appointed to carry out an advisory function be "fairly balanced." She also recommended that State law parallel provisions of the federal Advisory Committee Act aimed at insulating the public body from inappropriate political influence. The consensus of the Compliance Board that, while the suggestion reflected a "good government perspective," it was not germane to the Open

Meetings Act and thus beyond the purview of the Compliance Board. As a result, the Compliance Board took no position as to its merits.

Ms. Fluss's other second suggestion was to require public bodies appointed to carry out an advisory function to provide on the website of the appointing authority certain information, including the body's membership, purpose, reporting obligations, contact information, and the manner in which notice of its meetings is provided. There was discussion concerning the number of advisory committees that might be potentially affected. It was also pointed out that there are a few smaller municipalities that do not have a website. It was also suggested that a detailed "one-size-fits-all" legislative mandate of this sort would be inappropriate, considering the various purposes and structure of advisory groups that would be subject to its requirements. The consensus of the Compliance Board was that while it favored voluntary efforts to make more information public, the information required to be made public under the Open Meetings Act should not be expanded.

An additional suggestion came in the form of an e-mail message from Craig O'Donnell with the *Kent County News*. Mr. O'Donnell's concern was the inappropriate use of the term "executive session" by public officials and their counsel which, in his view, belie the requirements of the Act. He attributed the common misuse of this term to ineffective educational efforts concerning the Act. As a remedy, Mr. O'Donnell suggested that, "[i]t may be that the State needs to offer a cash reward for every successful complaint. The 'bounty system' has a long and honored tradition in America beginning with wolf's heads and crows."

Mr. Schwartz noted that the apparent logic was that the incentive would increase the number of complaints, resulting in increased compliance in the long term. He added that most people view the current advisory system as working pretty well. The Compliance Board unanimously agreed that they would not recommend a bounty system, although ways to improve educational efforts should be explored.

Educational Efforts

Discussion turned to staff's current efforts at providing training on the requirements of the Open Meetings Act. Mr. Schwartz pointed out that we not only frequently provide training at the Maryland Association of Counties and Maryland Municipal League conferences, but, on request, we have provided training for individual government entities. Mr. Varga noted that we have also did public forums such as one sponsored by the League of Women Voters on the Eastern Shore. It was also noted that the Maryland Foundation of Open Government obtained grant money to produce a DVD featuring Jack Schwartz on the Public Information Act and Open Meeting Act. It is hoped that the Office of Attorney

General can make the DVD presentation available through its website if adequate band width is obtained and copyright permission secured.

Mr. Schwartz pointed out that most of the problems we see are not intentional violations, but people not understanding what is required. Mr. Marquardt attributed part of the problem to changes in public bodies' staff. Ms. Bundy addressed a concern about uncertainty by some individuals as to what is required in minutes and suggested the value of additional training.

Mr. Reynolds suggested he would like to see more training offered on a regional basis since some local officials are not able to attend the annual conventions. Ms. McKeldin suggested we might offer an annual training session open to anyone, either in Baltimore or Annapolis. It was also suggested that staff can explore what additional resources might be made available through the Office of Attorney General website.

Miscellaneous

The final item discussed was Mr. Schwartz's announcement that this would be his final Compliance Board annual meeting in that he plans on retiring in August 2008.

The meeting adjourned at 11:05 a.m.

Revised 10/25/07