

Public Information Act Compliance Board
Minutes of Organizational Meeting
February 10, 2016

Present:

Members: John H. West, III, Esq., Chair; Christopher A. Eddings; Hon. René C. Swafford, Esq.; Darren S. Wigfield. *Absent:* Deborah F. Moore-Carter.

Interim staff: Deborah P. Spence; interim counsel: Ann MacNeille

Others: Marc Blom, Bryan Gales, Kimberly Glassman, John Monroe, Tom Reynolds, Barbara Schnackenberg, Rebecca Snyder, Yvonne Wenger

Call to order and welcoming remarks

Mr. West called the organizational part of the meeting to order at 10:15. He welcomed those in attendance, mentioned that the meeting was being recorded, and invited the Board members, Board staff, and others present to introduce themselves. He explained that this entirely new Board was meeting for the first time, and he stated that the Board would do its best to fulfill the statute and serve the people of Maryland.

Review of draft complaint procedures

After drawing the Board members' attention to the draft complaint procedures provided to them and distributed at the meeting, Mr. West asked the members whether they had any questions and whether the procedures were acceptable as drafted. Mr. Eddings stated his approval. Mr. Wigfield stated that participants in the complaint process should be made aware that submissions to the Board are public records and open to inspection. The Board instructed counsel to draft language to that effect and otherwise indicated its approval of the procedures.

Other procedural matters

The Board discussed the handling of complaints that do not fall within Board's authority, such as a complaint concerning a fee not over \$350. For such cases, it was agreed that counsel will draft dismissal letters for the Board's approval.

The Board discussed staff's handling of complaint files. Counsel explained that, ideally, the written complaints and responses will provide sufficient information so that the process can move quickly. In the experience of the Open Meetings Compliance Board, however, responses are sometimes incomplete, and complainants sometimes want to reply

to the response. If, preliminarily, it appears that an open meetings respondent has not provided necessary documents, counsel usually asks the respondent to provide them in an informal response, so as to avoid delays in submitting the file to that board. The Board agreed generally with that approach and asked that any follow-up inquiries be included in the file. The Board also agreed to accept replies from complainants, with the last word from the respondent. Mr. West noted that the submission of replies will delay the completion of the file and the running of the 30-day period for the issuance of an opinion. Mr. Eddings noted the difference between open meetings complaints, which focus on past events, and PIA fees complaints, which may focus on ongoing events, and he stated that the procedures that work for the Open Meetings Compliance Board might need to be adapted for the PIACB in the future.

The Board discussed the way in which it will deliberate on cases. Mr. Wigfield asked counsel if there were Open Meetings Act considerations. Counsel advised that the Board's deliberations on complaints would be quasi-judicial in nature and not subject to the Open Meetings Act, and that the decision as to whether to hold the deliberations in public was therefore up to the Board. After a brief discussion, the Board indicated that it will deliberate in open session. Mr. West stated that the Board's initial meetings will be in person so that the members have the opportunity to interact and that, depending on the caseload and the burden on the members from distant counties, later meetings might be held by teleconference. Ms. Swafford suggested the use of Skype, and staff will look into that. The written submissions will be provided to the members when each file is complete. Mr. West stated that members will be asked for meeting dates about 10 days later so that they will have time to read the file. If possible, the Board will address several cases at once.

The Board discussed methods of giving notice of its meetings. Counsel explained that notice will be given on the Board's webpage and via email to people who have signed up to receive the notices of the Open Meetings Compliance Board and this Board. She noted that some of the subscribers, such as representatives of the Maryland-Delaware-DC Press Association, the Maryland Municipal League, and the Maryland Association of Counties, are good conduits to a larger audience. The webpage address will be published in the Maryland Register.

Mr. West addressed the possibility that members might find it appropriate to recuse themselves from certain matters. Recusals will be handled on a case-by-case basis. The Board then discussed what to do in the event of a tie vote in the absence of a member, and Mr. Wigfield asked whether the board was subject to any law or statute regarding any rules of order to be followed. Mr. West stated that ideally the Board will try to agree on the matters before it and that the board was designed to have members of varying backgrounds come to decisions collectively.

Mr. West asked the members if anyone would volunteer to serve as the Board's designee for Open Meetings Act training. Counsel explained that the training course is posted online, and Mr. Reynolds stated that it takes about 2 hours to complete. Mr. Eddings will serve as designee, and Mr. Wigfield stated that he will also take the training.

The Board discussed whether it would be useful to devise a complaint form. Counsel will draft a sample complaint letter for the Board's consideration.

Adjournment

Mr. West thanked the members and other attendees and adjourned the meeting at approximately 11:20 a.m.