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STATE OF MARYLAND
OPEN MEETINGS COMPLIANCE BOARD

10 Official Opinions of the Compliance Board 95 (2016)

Board of Supervisors of Elections of the City of Rockville
Max A. van Balgooy, *Complainant*

Complainant Max A. van Balgooy alleges that the Board of Supervisors of Elections of the City of Rockville (“Elections Board”) violated the Open Meetings Act in two ways with respect to its February 4 and February 6, 2016 meetings. He alleges first that the Elections Board did not give reasonable advance notice of the February 6 meeting, and, second, that it did not prepare minutes of either meeting.

This is Complainant’s second complaint about this public body; on February 12, 2016, he similarly complained about the adequacy of the Elections Board’s notices and the timeliness of its adoption of minutes. On May 2, 2016, we gave advice on both topics. *See 10 OMCB Opinions 22 (2016)*. We thus have already addressed the practices followed by the Elections Board last February, as well as the circumstance of its lack of full-time staff at that time.

We have nothing to add on the timely adoption of minutes. The Elections Board acknowledged last Spring that it was behind, and it informs us that Rockville now has a full-time City Clerk and that it is catching up on its backlog. We note that the Elections Board has now posted minutes, with transcripts, for the two February meetings, as well as minutes for meetings this Summer.

We turn to the allegation that the Elections Board did not give reasonable advance notice of its February 6 meeting. The Elections Board had given notice of two election forums, one scheduled for January 23 and the other for February 4, to hear comments on the conduct of a recent election. The submissions state that the January 23 meeting was

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canceled because of the weather. In fact, there had been a blizzard, and Maryland was under a state of emergency. On January 29, the Elections Board decided to hold the canceled January 23 meeting on February 6. The Elections Board provided notice of that meeting by inserting into the February 4 meeting notice a sentence to the effect that the forum consisted of two events, and that the second event would be held on the 6th. Because the Elections Board uses the City calendar for its meetings notices, that meant that a person who saw only an entry for February 4 would not know about the February 6 meeting unless that person clicked on the February 4 entry and read the entire notice. The Elections Board thus gave notice—but not fully adequate notice. A public body that uses a calendar function must ensure that the meeting notice appears on the date block for the day of the meeting.

As for timeliness, the response and notices do not establish the date on which the February 4 notice was revised to include the February 6 notice. That apparently occurred between January 29 and February 4. We therefore will only comment generally. Generally, we think that the public can reasonably expect that public bodies will promptly re-schedule the meetings that they have had to cancel during an emergency. And, in those circumstances, we think that notice can be shorter, if need be, than for a meeting that the public did not already know about. Here, a person interested in the Elections Board's activities, and particularly in this forum, could reasonably be expected to watch the election board's webpage for the new date. At the same time, when notice is short, the public body should use additional methods of giving notice, such as posts on social media or to the media that follow the public body's activities.

In conclusion, we find that the Elections Board's notice for the February 6 meeting was inadequate because it was not posted in the space on the calendar for that day, and, as the elections board has already acknowledged, the board did not adopt minutes in a timely fashion. Future complaints on these subjects should be addressed only to this public body's current practices.

As required by § 3-211 of the General Provisions Article of the Maryland Annotated Code (2014, with 2015 supp.), the Council must announce these findings at its next meeting and submit to us a signed copy of this opinion.

Open Meetings Compliance Board

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