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**STATE OF MARYLAND**  
**OPEN MEETINGS COMPLIANCE BOARD**

***19 Official Opinions of the Compliance Board 186 (2025)***

**July 17, 2025**

**Washington County Board of County Commissioners**

The Complainant alleges that the Washington County Board of County Commissioners (the “County Board” or “Board”) violated the Open Meetings Act (the “Act”) by omitting from a meeting agenda a known item of business, specifically, a vote to approve a financial incentive for a business to locate in the County. The County Board asserts that it did not know, when it prepared the agenda, that the body would take the vote. We thus find no violation of the Act based on the agenda’s omission of the vote. But we find that the description of another agenda item—a staff presentation about the business—was too vague to satisfy the Act.

**Background**

On May 8, 2025, the County Board convened for a special session. The agenda indicated that the Board intended to meet in open session just long enough to enter closed session, when it would discuss “a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State,” and the “provision of financial incentives to [the] business planning to locate [a] facility in Washington County.” The agenda further indicated that the closed session was expected to last about fifteen minutes, after which the County Board intended to reconvene in open session for “staff comments” before adjourning the meeting.

Following the closed session, the Board reconvened in open session, during which County staff asked the Board to approve a \$100,000 financial incentive for a business proposing to build a manufacturing plant in the County. The Board approved the resolution 4-0.

### **Discussion**

The Complainant alleges that the County Board violated the Act by failing to list the vote to approve the financial incentive on the meeting agenda.

Section 3-302.1(a) of the Act<sup>1</sup> requires, before a public body meets in open session, that the body “make available to the public an agenda: (i) containing known items of business or topics to be discussed at the portion of the meeting that is open; and (ii) indicating whether the public body expects to close any portion of the meeting.” § 3-302.1(a)(1). Whether a public body knew when it published an agenda that something would come up as an item of business is a factual inquiry. *E.g.*, 18 *OMCB Opinions* 117, 119 (2024); 14 *OMCB Opinions* 102, 103 (2020). “As we have often stated, ‘[w]e are not an investigatory body with . . . tools for conducting factual inquiries,’ 6 *OMCB Opinions* 63, 67 n.4 (2008), but, rather, an independent, volunteer board that must rely on the public record and the parties’ submissions.” 16 *OMCB Opinions* 119, 121 (2022).

The County Board says that it “had no foreknowledge that a vote would be taking place.” Members of the body “chose to vote to approve incentives,” apparently during the closed session discussion, but the vote “was not necessarily expected.” The County Board asserts that, “[h]ad the details disclosed during closed session been different, it is very likely there would have been no vote at all.”

Based on this representation, we cannot conclude that the County Board knew, when it prepared the May 8 agenda, that the body would vote in the open session on whether to approve a financial incentive. The Act expressly authorizes a public body to add to its agenda topics that were not known when the agenda was made. *E.g.*, 18 *OMCB Opinions* 40, 40 (2024) (citing § 3-302.1(e)). We thus find no violation based on the agenda’s omission of the vote.<sup>2</sup>

The Complainant also alleges, however, that the agenda item “staff comments” was too vague to satisfy the Act. He asserts that the County Board could have added an “item on the agenda stating that [the body] could be voting to approve or disapprove a financial

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<sup>1</sup> Statutory references are to the General Provisions Article of the Maryland Annotated Code.

<sup>2</sup> The County Board asserts that, had it taken the vote in closed session, that action would have violated the Act. In fact, we have said that “[t]here is no prohibition in the Open Meetings Act against a public body’s taking an action in closed session, if an exception permits the session to be closed.” 1 *OMCB Opinions* 73, 79 (1994). And while a public body may not take action on generally applicable legislation in closed session, 7 *OMCB Opinions* 148, 163 (2011), we have said that a body can “decide on an incentive to be offered to a business” in closed session under the business location exception of § 3-305(b)(4), 8 *OMCB Opinions* 99, 101 (2012). Regardless, closed session discussions under § 3-305(b) are discretionary, not mandatory, and, when a public body decides to discuss something in open session, the agenda must provide sufficient detail about that discussion topic. As noted above, we find no violation based on the agenda’s omission of the vote because the record does not indicate that the County Board knew that it would take a vote in open session.

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resolution involving a loan of taxpayer funds to a private business, or even a more generic line item . . . such as ‘Board Motions & Actions.’” Labeling the item as “staff comments,” the Complainant asserts, “in no way relay[ed] to the taxpayers that a vote involving taxpayer funds or any motions for consideration may occur.”

The County Board says that it listed “staff comments” on the agenda because “County staff prepared a brief presentation regarding the proposed incentive.” The body “used the closed session to discuss confidential details about a business which was seeking to locate in the County” and the body “opened the session in order to allow the staff to present the details of the business to the public.” The County Board says that the agenda item “staff comments” “accurately reflect[ed] precisely what occurred—a [s]taff [c]omment section regarding incentives that the County planned to offer the [b]usiness.”

We conclude that the agenda item “staff comments” was too vague to satisfy the Act. Although “a description need not be particularly detailed,” 16 *OMCB Opinions* 197, 199 (2022), the description should provide members of the public enough “information that will help them decide whether to attend a particular meeting,” *id.* (quoting 16 *OMCB Opinions* 62, 62 (2022)). We do not think that the agenda needed to reflect the possibility of a vote if, as the body asserts, it was not known that the body would likely take a vote. But the County Board apparently knew that staff intended to present information about a business seeking to locate in the County and the proposed incentive. We thus think that the agenda item should have reflected that. The County Board was not required to disclose confidential facts, but the agenda should have provided a little more information, even if it was as basic as “staff presentation on business proposal” or “staff comments on financial incentive.” We conclude that the failure to provide any information about the substance of the staff comments violated § 3-302.1(a)(1). *See, e.g.,* 15 *OMCB Opinions* 174, 175 (2021) (finding that “recap of closed session” was too vague to satisfy the agenda requirement because “the failure to include any detail about the substance or topic of discussion ma[de] it difficult for a member of the public to decide whether to attend the meeting”).

### Conclusion

We conclude that the County Board violated § 3-302.1(a)(1) because the agenda item “staff comments” was too vague to inform the public of what would be discussed at the meeting.

This Opinion is subject to the acknowledgement and announcement requirements of § 3-211.

**Open Meetings Compliance Board**  
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