CAMBRIDGE MATTERS - 2021-03

 Stephen Rideout

swrideout@aol.com

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Dear Readers:

It is hard to know where to start this report or how long the report may be. It is about County Council and the article that I saw Friday in one of our local newspapers. Early in the article about the ambulance staffing problems was a statement attributed to Council President Jay Newcomb where he is reported to have said that the policy that was discussed “was presented to the council for transparency”.

While reluctant to hold someone to a quote from a newspaper, the topic of County Council transparency is one that has been ignored for too long. “Transparent” is not a word that I would use to describe how open the County Council meetings are to the public. While I am early into my research on the subject, it is clear from the agendas that the County Council provides to the public and what I heard during the Meeting of March 16th as it opened at 4:30 p.m. and closed at 4:31 p.m., the County Council is not transparent and is routinely in violation of the Maryland Open Meetings Act. In addition, by the purported statement about the “ambulance transfer policy” being presented to the council, the County Council should already know about the “transfer policy” since it presumably approved it. Why it should have been done is to inform the public so that citizens of Dorchester County are aware of the policy.

Regarding the "ambulance transfer policy," the article was unclear to me as to what that was about. I might assume that it pertains to ambulances being repositioned for coverage when ambulances have been committed with other patients and therefore are not available for a period of time in their primary area of coverage. If that is the case, I am advised that other counties have similar policies that are used by the 911 call centers to cover as much of a county as is feasible until the committed ambulances return to the county. I am told that those practices are not publicized to the public as the coverage can change from call to call, and so must be tailored to specific incidents. Would the public have more confidence in these services if the County Council would let the general population know that a policy exists to ensure their needs are met as effectively as possible given the number of ambulances available and the size of the county? I am told that one factor to be kept in mind is the ongoing controversy regarding volunteer ambulances either not being available or not responding to calls, which appears to be a significant issue in other counties and would appear to need to be addressed by the EMS Manager.

Regarding the issue of County Council transparency, however, Chapters 4 and 5 of the Open Meetings Act are the most relevant to this discussion. They are both quite lengthy but have some preamble language that is important to show how “transparent” County Council appears to have been or not been in the recent months for which I have agendas and meeting minutes, and in particular the March 16th meeting.

Before providing you with the requirements of the Act, let’s look at how the County handles the process to close meetings to the public. The agendas that I reviewed that started near the end of last year and into this year call for a “regular” session to start anywhere from 4:00 p.m. to 5:00 p.m. to then go into “closed” session a minute later. Routinely at 6:00 p.m. the next “regular” session starts that remains open to the public.

With the agendas I have seen, there is no “closing statement” for the earlier meetings that explain why County Council is going into “closed” session nor any citation of what section of the Open Meetings Act is being relied on for that purpose. As I listened on the phone on March 16th at 4:30 p.m., no explanation or “closing statement” was provided by whoever was leading the meeting during the time that I was able to listen to it. I cannot tell you who said what I heard because after initially announcing who was present on the phone call, there was no effort by anyone to identify themselves as they began to speak or vote. As I was not familiar with the voices of the people on the call, I was not able to know who made the motion or voted to close the meeting.

In any event, no reason was given by anyone as to why they were going into a closed meeting or about what they would be discussing. I thought that I heard 3 people identify themselves by name of someone who is a County Council member as the regular meeting opened. After the vote to close the meeting, I could not hear anything further and so hung up the phone.

Now the issue of whether a meeting can or should be closed can be complicated at times, but not if a closed meeting is about when “council received the updated ambulance transfer policy for review”. I do not know if that took place in the closed meeting but know that it was referenced in the open meeting that started at 6:00 pm. While the Open Meetings Act allows for closure for personnel reasons, it does not appear to allow it for policy reviews. But the reason for the Open Meetings Act and the “closing statement” prior to the vote to go into a closed meeting is to notify the public or be transparent to the extent possible about what County Council will be discussing in the closed session. By the Council failing to provide a closing statement prior to going into closed session, the public is not aware of what was discussed there and cannot know from the minutes if, for instance, the “ambulance transfer policy” was discussed or only some matters that were allowed to be discussed.

When the 6:00 p.m. meeting started it appeared from the comments of President Newcomb that several matters were discussed in what he called “executive” session including what he called “personnel issues” with no further detail. He then mentioned the hiring of unnamed people to certain positions with the county, which could have been personnel issues, and obtaining legal advice from the County attorney on a variety of subjects. So, was the ambulance transfer policy part of the unexplained “personnel issues”? We cannot know because the generalized mention of “personnel issues” is not helpful, explanatory, or transparent. Prior to going into that “closed” meeting, no information was provided by President Newcomb or anyone else as to personnel matters or advice of counsel and no Open Meeting Act sections were cited as reasons to go into closed session.

As I looked at prior meeting minutes, they reflect that the County Council went into closed session pursuant to one or more sections of the Open Meetings Act. The concern is that while the minutes make such assertions, there are no “closing statements” that appear with the agendas that I have seen that confirm what is stated in the meeting minutes, and on March 16th there was no written or oral “closing statement” made or provided reflecting what was going to be discussed in the closed session. What was provided was a motion by someone to go into closed session and the vote to do that. If that is what happened at the other meetings, every one of them should be found to be in violation of the Open Meetings Act and procedures need to change.

The newspaper report on the issue of ambulance staffing was a bit confusing, as I had the opportunity to speak with Walt Merrick about the Dorchester County EMS. Walt had been hired by the county to address these issues but resigned a little over a month after being hired for his reasons, one of which was because he was not provided the opportunity to present his findings to the County Council on the results of his research and evaluation of the County EMS and what he found to be the challenges that needed to be corrected.

He prepared a very thorough and comprehensive report that he showed and explained to me. He found significant problems for which he had recommended solutions, but he was not permitted to make his report, findings, and recommendations to the County Council as his presentation was not placed on the County Council agenda.

I saw in the newspaper article that an additional ambulance was unable to be purchased/outfitted despite the money for it being in the budget. While I did not listen in to the discussion during the 6:00 p.m. meeting, the explanations given by staff as reported in the newspaper do not appear to be at all consistent with those provided to me by Mr. Merrick.

As he has now left the employment of the County, I am trying to find a way to have him make his presentation to the City Councils in Cambridge and Hurlock where they could be shown to the public, so that there will be more transparency for an issue that is or should be the concern of everyone in Dorchester County. If enough of you indicate an interest in having him make a presentation, I will ask Walt if he would be willing to do a Zoom Meeting for that purpose.

So, let me close with some of what you will find in Chapters 4 and 5 of the Open Meetings Act. How the County Council closes its meetings does not meet the requirements of the Act. How the County Council runs its telephone meetings for clarity of who is speaking or voting does not meet the requirements of the Act. How the County reports its compliance with the Open Meetings Act for March 16th in its Minutes will be interesting but still not in compliance with the Act. How the meeting minutes have reported prior votes in some instances are not in compliance with the Open Meetings Act unless they cite who voted for or against a motion.

I am adding portions of Chapters 4 and 5 of the Open Meetings Act as an attachment so that you can read them separately. If you do read them, compare what they say are required to close a meeting with how the County appears to fail to meet the requirements. You will notice in what is attached that someone on County Council should have been trained about the Open Meetings Act requirements as of 2017. I am not sure who that is, or if anyone has been trained. If no one has been trained or the person trained is not at the meeting, the reporting requirements are different than what the County Council currently does. In any event, the person assigned to this responsibility is not doing his or her job. Depending on who that person is, we may need ask if it is simply negligent or possibly intentional.

Thanks for reading.

Steve