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ANDREW G. WHITE, ESQ.

STATE OF MARYLAND
OPEN MEETINGS COMPLIANCE
BOARD

20 *Official Opinions of the Compliance Board* 258 (2026)
August 17, 2026
Calvert County Board of County Commissioners

The Complainant alleges that the Calvert County Board of County Commissioners (the "County Board" or "Board") violated the Open Meetings Act (the "Act") by discussing certain agreements with a development company in closed session and by failing to make sufficiently detailed public disclosures before and after the closed session. The Complainant also alleges that the County Board violated the Act by not indicating, on an open session agenda, that the body would be taking a vote on a particular matter.

For the reasons below, we conclude that the Act allowed the County Board to consider the agreements with the development company in closed session. But the County Board violated the Act by failing to make sufficiently detailed disclosures about that discussion before and after the closed session. As for the open session agenda, we find no violation of the Act.

Discussion

A. August 27, 2024, closed session

We begin with the Complainant's allegations related to an August 27, 2024, closed session.[1] The County Board says that, during the closed session, the body ratified a confidentiality agreement and an exclusive rights negotiating agreement with a development company. The confidentiality agreement indicates that it was signed by the County Board's president on August 20—that is, a week before the closed session. The County Board ratified the signature in the closed session.

The Complainant first questions whether the Board President had the authority to sign the confidentiality agreement before the Board's ratification. But this is not a question

[1] The complaint refers to an August 26, 2024, closed session. However, the County Board asserts that the session took place on August 27 and the written closing statement's reference to August 26 is a typo.

for us to resolve, as the Act does not speak to the powers of an individual member of a public body acting outside of a meeting. *See, e.g.*, 19 *OMCB Opinions* 86, 86 (2025) (noting that the Act applies only when a public body "meets"); 20 *OMCB Opinions* 168, 169 (2026) (recognizing that "the Act does not require a public body to conduct business in a meeting"); 18 *OMCB Opinions* 129, 133 (2024) (recognizing that our authority extends only to interpreting the Open Meetings Act).

The Complainant also alleges, however, that the County Board did not make adequately detailed public disclosures before and after the closed session, and that the closed-session discussion did not stay within the scope of the statutory exception that the County Board invoked to close the meeting. We address each of these allegations in turn.

1. Public disclosures before the closed session

The Complainant alleges that the County Board did not disclose enough details before its closed-session discussion on August 27, 2024. Specifically, she asserts that "the agenda and closed-session materials" did not identify the company with whom the County Board entered agreements and did not disclose the nondisclosure agreement, the fact that the Board President had already signed it, or that the County Board intended to ratify the agreement in closed session.

Based on the record before us, we find no violation with respect to the agenda.[2] The Act requires an agenda to "contain[] known items of business or topics to be discussed at the portion of the meeting that is *open*" and "indicat[e] whether the public body expects to close any portion of the meeting." § 3-302.1(a)[3] (emphasis added). "A public body is not required to make available any information in the agenda regarding the subject matter of the portion of the meeting that is closed . . . ." § 3-302.1(c). Thus, the Act did not require the County Board to disclose anything substantive about the closed-session discussion in the meeting agenda. The body had to disclose only whether it expected to enter closed session, and the agenda indicated that the County Board planned to close the meeting after discussing several items in open session. We thus find no violation as to the meeting agenda.

The complaint also references "closed-session materials," which we understand to include the written closing statement required by § 3-305(d)(2). Before a public body meets in closed session, that provision of the Act requires the presiding officer to prepare "a written statement of the reason for closing the meeting, including a citation of the

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[2] A copy of the agenda is available online at https://granicus_production_attachments.s3.amazonaws.com/calvertcounty/a8b35f6cd5015d25a9eb79b84e6e1d290.pdf (last visited Aug. 17, 2026).

[3] Statutory references are to the General Provisions Article of the Maryland Annotated Code.

authority under [§ 3-305], and a listing of the topics to be discussed." § 3-305(d)(2). "[E]ach of the three items in the written statement serves a distinct purpose and must be included." 10 *OMCB Opinions* 46, 49 (2016) (citing 9 *OMCB Opinions* 15, 22-24 (2013)). But the County Board failed to comply with this mandate for the August 27 closed session.

As we discussed in another recent opinion involving the County Board, *see* 20 *OMCB Opinions* 246, 247 (2026), the body's past practice was to disclose only some of the required details before meeting in a closed session; the Board disclosed other details only after the closed session, by incorporating a closed-session summary into the closing statement. Thus, before the August 27, 2024, closed session, the County Board disclosed that it planned to meet in closed session under the so-called "business location" exception of § 3-305(b)(4), which permits a public body to meet in closed session to "consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State."[4] But the County Board did not disclose the topic of discussion or the reason why the Board wanted to discuss it in closed session. We thus find a violation of § 3-305(d)(2).

In submissions related to another recent matter, the Board said that it has changed its protocol and has started disclosing all required details before meeting in closed session, as required by § 3-305(d)(2). We thus offer some general guidance on the level of detail required of those disclosures. "A closing statement must provide meaningful information about the topics to be discussed and the public body's reasons for excluding the public." 10 *OMCB Opinions* 128, 132 (2016). "It is not sufficient merely to restate the words of the statutory exception." *Id.* But a public body "is not required to provide a level of detail that would compromise the confidentiality of the session." *Id.*

With respect to the business location exception, which the County Board invoked for the closed-session discussion at issue here, we have said that "a public body 'need not reveal the name of the business entity, the nature or level of the financial assistance being considered to lure the business, or other specific information that could reasonably be foreseen as disadvantageous to [the body's] negotiating position.'" 18 *OMCB* Opinions 105, 109 (2024) (quoting 4 *OMCB Opinions* 142, 145 (2005)). But "even when the identity of the proposal or property must be secret, the public body can usually add some additional detail beyond the very broad words of the statutory exception." 12 *OMCB Opinions* 62, 63 (2018). We thus encourage the County Board, moving forward, to disclose as much information as it can without compromising the confidentiality of the closed session.

2. Scope of the closed-session discussion

We turn next to the Complainant's allegation that the scope of the business location

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[4] The County Board invoked other exceptions, as well, but none are pertinent to the complaint here.

exception did not permit the body to discuss the nondisclosure agreement in closed session. We have said that the business location exception encompasses discussions about a specific business's proposal to relocate, expand, or remain at an existing facility within the State, 1 *OMCB Opinions* 28, 29 (1993), and "any item reasonably related to," that proposal, 1 *OMCB Opinions* 220, 221 (1997). For example, we have found that the exception applies to discussions about:

- "the extent to which" the public body ought to provide "funds or other benefits . . . as part of [a] package to encourage [a] development," *id.*;
- whether a public body should offer a subsidy in the form of a "gift or below-market sale of land," 5 *OMCB Opinions* 72, 74 (2006);
- "[t]he characteristics of a business seeking to purchase land" from a public body, *id.*;
- "the economic development benefits and potential negative consequences of selling to a particular private business," *id.* at 74-75;
- an offering price for such a sale, *id.* at 75; and
- subleasing property under a public body's control to for a potential business operation, 5 *OMCB Opinions* 86, 90 (2006).

The County Board asserts that the documents ratified during the closed session were a confidentiality agreement and an exclusive rights negotiating agreement with a development company. The Board says that the agreements were necessary to facilitate the exchange of information so that the parties could negotiate the purchase of land owned by the County. According to the Board, "the only way the parties perceived that they could negotiate was to have the ability to exchange certain information in a confidential manner." Based on this representation, we conclude that discussing and ratifying the agreements was an item reasonably related to a proposal of a business to locate in the State and, thus, within the business location exception of § 3-305(b)(4). We find no violation based on this allegation.

3. Public disclosures after the closed session

Finally, with respect to the August 27, 2024, closed session, the Complainant questions whether the body made sufficiently detailed disclosures after the meeting.

When a public body meets in closed session, the Act requires that the body's open-session minutes include:

(i) a statement of the time, place, and purpose of the closed session;

(ii) a record of the vote of each member as to closing the session;

(iii) a citation of the authority under § 3-305 . . . for closing the session; and

(iv) a listing of the topics of discussion, persons present, and each action taken during the session.

§ 3-306(c)(2). Here, the County Board disclosed the time and place of the closed session, the record of the vote to close the meeting, and who was present for the discussion under the business location exception. The body disclosed the topic as "[e]xploratory study documents subject to nondisclosure," and said that "[t]he Board ratified the President's signature by consensus without a formal vote."

We agree with the Complainant that the topic description was too vague to satisfy the Act. As with written closing statements, closed-session summaries must avoid "describing closed-session discussions in . . . broad and uninformative way[s]," 9 *OMCB Opinions* 71, 75 (2013), and must "provide the public enough information 'to broadly ascertain whether the actual discussion fell within the exceptions that the public body claimed as a basis for excluding the public,'" 16 *OMCB Opinions* 30, 38 (2022) (quoting 9 *OMCB Opinions* 127, 131 (2014)). Here, we think "[e]xploratory study documents subject to nondisclosure" was too vague to satisfy that standard. It is not clear to us what "exploratory study" means or how it pertains to a proposal of a business to locate, expand, or remain in the State. We thus think, to comply with the Act, the Board "needed to offer a more detailed description." 18 *OMCB Opinions* 105, 109 (2024) (concluding that a closing statement that parroted the statutory language of § 3-305(b)(4) was insufficient). To be clear, the disclosure could still have been "quite general" and protected confidential information. 4 *OMCB Opinions* 143, 146 (2005) (suggesting that a closing statement would have satisfied the Act if it had simply said that the body planned "to discuss a specific company's potential move to the County and the extent of County financial assistance to offer that company"). But saying only that the Board discussed "[e]xploratory study documents subject to nondisclosure" did not provide the public enough information to ascertain that the discussion fell within the business location exception. We thus find that the County Board violated § 3-306(c)(2).

B. April 7, 2026, open session

The Complainant also alleges that the County Board violated the Act by omitting a vote from the agenda for the County Board's April 7, 2026, open session. The agenda included the following item:

> WORK SESSION – 11:50 a.m.
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> *   *   *
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> 2. Department of Planning & Zoning: Proposed Moratorium on Data Center Projects
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>   Memo from . . . Director, Presentation

When the item came up, a member of the County Board interjected before the planning and zoning director could give his presentation. The Board member noted that a month earlier, the body had voted unanimously in favor of a moratorium on data centers and had directed staff to bring forward an ordinance. He expressed concern that the scheduled presentation could allow the Board to reconsider the moratorium, and he moved to direct staff to bring forth a draft ordinance that would ban data centers in the County for at two years, with a public hearing on the ordinance to take place no later than May 5, 2026. Another member of the Board seconded the motion and, after some discussion, the motion failed.

The Complainant alleges that the County Board violated the Act because the agenda did not indicate that the body would take substantive action or vote on a proposed moratorium. The County Board responds that the Commissioners did not know there would be a vote and, thus, the Act did not require the vote to appear on the agenda.

The Act requires, before a public body meets in open session, that the body "make available to the public an agenda . . . containing *known* items of business or topics to be discussed." § 3-302.1(a)(1)(i) (emphasis added). "Whether a particular item of business was 'known' to the public body when it made its agenda available is a question of fact," 14 *OMCB Opinions* 102, 103 (2022), and we are "not a fact-finding tribunal," 8 *OMCB Opinions* 170, 171 (2013). We thus rely on the submissions of complainants and public bodies to establish the facts in a particular situation.

Here, the vote in question came up at the meeting when one member of the body interrupted the planned presentation on the data center moratorium to present his motion. To be clear, the agenda advised the public that the County Board would be discussing a data center moratorium. The only question is whether the body knew that it would be taking a vote on a particular action related to that subject matter. The County Board's response to the complaint asserts that "the Commissioners did not know there was going to be a vote." Presumably, at least one Commissioner—the one who made the motion—anticipated a motion. But it is not clear from the record whether that Commissioner knew *at the time the agenda was prepared* that he would make the motion. Nor is it clear from the record that any member of the body knew that another Commissioner would second the motion and trigger a vote. Moreover, the Act "permits public bodies to add to their agendas topics that were not known when the agenda was made available." 14 *OMCB Opinions* 42, 43 (2020) (citing § 3-302.1(e)). For all these reasons, we cannot conclude that the vote on the motion was a "known item[] of business or topic[] of discussion" that the Commission omitted from the agenda in violation of § 3-302.1. Based on the limited record before us, then, we have no basis to find a violation of the Act. *See, e.g.*, 17 *OMCB Opinions* 3, 5-6 (2023).

Conclusion

We conclude that the County Board violated §§ 3-305(d)(2) and 3-306(c)(2) by failing to make sufficiently detailed disclosures before and after an August 27, 2024, closed session. Regarding the April 7, 2026, open session, we find no violation of the agenda requirement.

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

Open Meetings Compliance Board
Runako Kumbula Allsopp, Esq.
Karen R. Calmeise, Esq.
Andrew G. White, Esq.