

# The Capital

## Top Stories

### Access to records vital for government watchdogs

By EARL KELLY, Staff Writer

Community activist Albert Johnston has been researching zoning issues for the Greater Severna Park Council for decades. He stays in near-constant contact with the county Office of Planning and Zoning, copying applications, maps and other documents.

In his spare time, he monitors planning meetings, attends Board of Appeals hearings and observes County Council meetings.

"It was tough at the beginning; they were kind of reluctant to provide documents," he said of zoning officials. "But I have been there so often, there is now no argument on it. Generally, I get good service out of the county once the request is in."

The law is on Mr. Johnston's side.

State "sunshine" statutes specify that, with some limitations, members of the public have the right to examine public documents, and lawmaking bodies must conduct their business in the open.

The General Assembly passed the Public Information Act in 1970, giving the public access to government documents. As many states did, Maryland expanded the law in the wake of the Watergate scandal.

Part of that expansion was the state Open Meetings Act, passed in 1977. That law says a body engaged in a "legislative function" generally must conduct business in the open.

To remind citizens of the importance of openness in government, media organizations have designated today as Sunshine Sunday and this week as Sunshine Week.

Anne Arundel County, rather than passing its own sunshine laws, has the same standards as the state, according to Jody Couser, a spokesman for County Executive Janet S. Owens.

Ms. Couser said the county receives thousands of requests for information each year and nearly always grants the information without requiring a formal public information inquiry. She said most inquiries concern land records.

Pam Jordan, county land-use spokesman, said her office asks that those wanting information fill out a form to help county personnel locate the desired information.

But not everyone is satisfied with the process. Pete Robinson of Arnold, a member of the Severn River Commission, said he resents having to fill out forms when he requests information from the land-use files.

"It's almost like a fascist society," Mr. Robinson said.

How Anne Arundel County stacks up with other Maryland counties is hard to gauge.

State Assistant Attorney General Jack Schwartz, who enforces the Open Meetings Act, said that to his knowledge, no one has ever done a ranking of counties by their willingness to make records and meetings open.

An analysis of the Open Meetings Compliance Board's opinions show that most disputes arise between residents and governments in smaller towns, such as Elkton and Poolesville. Very few complaints have been filed against Anne Arundel County or any of its towns.

That's partly because the public takes for granted much of the information it gets from government-held documents. That information ranges from campaign finance reports, to nursing home inspections, to how much the house down the street sold for, to how the county spends its \$890 million annual budget.

Putting the law to work

One common misconception about state sunshine laws is that journalists are more entitled to access than other citizens. They are not.

Private citizens have just as much right as a reporter to examine public documents and attend public meetings. But most people are just too busy.

In 2004, *The Capital* used public information laws to file 25 formal requests for documents from local, state and federal offices.

Those requests were in addition to the dozens of meetings reporters covered in any given month, not to mention the countless times they looked at police, court, land-use, school board, and budget records.

When *The Capital* last year asked to see e-mails sent to the county executive and County Council, the reaction ranged from quiet resignation to outright hostility.

E-mails are public record under state law, but some officials were reluctant to give the newspaper access to them, citing concerns that constituents' privacy would be invaded.

Severna Park Councilman Cahtleen Vitale, an attorney, wrote an op-ed piece decrying the chilling effect the request would have on her ability to serve constituents.

Ms. Owens went so far as to post a warning on the county government's Web site, urging readers to call her instead of e-mailing because the newspaper might be watching.

"Ms. Owens wants our citizens to know the law, their alternatives and, if they communicate with this office through the mail or electronically, whether or not they want it, they may find their name and issues printed in the paper," Matt Diehl, a spokesman for Ms. Owens, said Friday.

A number of stories surfaced from *The Capital's* request that otherwise would never have seen the light of day.

For example, the newspaper obtained e-mails showing that county officials were concerned about how it would look if the public found out the Compass Pointe Golf Course was in jeopardy of defaulting.

The paper used that information as the starting point for a series of articles about financial woes at the course. Last month, the County Council voted to spend \$26 million to take over the Pasadena course.

Uncovering the truth

Examples of how openness benefits the public abound.

In September, for example, *The Capital* filed a Maryland Public Information Act request for all documents pertaining to cracking in the new surface on the Bay Bridge.

The Maryland Transportation Authority responded a month later, and reporter Daniel Valentine examined more than 2,000 pages of documents.

"It took us forever, but it gave us notice of what was wrong with the bridge, months before (an investigation task force) validated it," Mr. Valentine said.

Last year, reporters David Abrams and Eric Hartley also requested state and county documents pertaining to firefighters' exposure to cancer-causing agents during training in the 1970s and 1980s.

The paper requested information from the city of Annapolis, BWI Airport and Anne Arundel, Baltimore and Howard counties.

"A lot of records had been destroyed or lost, they were so old," Mr. Abrams said. "Howard County first said they didn't have the records, then found them and provided them a week later."

"We got a lot of stuff, and it prompted an (in-depth) investigation" by the state government, Mr. Abrams said. An investigator is expected to release the state's findings next month.

Mr. Hartley doubts all the records were turned over.

"I think they gave us what they wanted to give us. It is open to abuse - you have no way to know what they aren't giving you," he said.

Pending legislation

Currently, a bill backed by Gov. Robert L. Ehrlich Jr.'s administration is pending in the General Assembly to protect the identity of farms that report sick animals.

State agriculture officials want the bill passed, saying it will encourage farmers to report outbreaks of disease earlier if they know their identity will be protected.

Opponents say it's not up to bureaucrats to decide when to release information, and members of the public have a right to know if they have been exposed to diseased animals and poultry.

While that effort to restrict access is making its way through the General Assembly, another bill would make courts more open by allowing television cameras into criminal trials.

Prosecutors and defense attorneys have expressed opposition to allowing them.

"I have a hard time getting witnesses to testify as it is," Anne Arundel County State's Attorney Frank R. Weathersbee said. "You put them on television, I'm going to have a harder time getting them to testify."

Peter S. O'Neill, a Glen Burnie defense attorney, expressed concern that attorneys who wanted free publicity would "address the cameras instead of the facts."

But Sen. Philip C. Jimeno, D-Brooklyn Park, one of the bill's sponsors, said the public wants to see what goes on in its courts.

"It is obvious from media coverage that people want access to the courts: look at Michael Jackson and O.J. Simpson," he said. "It's a First Amendment right to free speech."

Enforcing the law

Mr. Schwartz of the Attorney General's Office said he has never compared how Maryland's sunshine laws stack up against other states, but the level of openness required here is typical.

"Maryland's Opening Meeting law is more or less in the middle of the pack," he said.

Finding out what is public information or which meetings are open to the public is just a mouse click away.

The Attorney General's Office provides free information on its Web site for filing written requests, the fees that may be charged for copying documents and procedures to follow if a government office fails to comply with the law.

But even with the law, the tension between the right to know and the ability to conceal is never-ending. Government often wins in keeping information in the shadows.

In September 2003, a reporter for *The Capital* wanted to see how taxpayers' money was being used to provide drivers for the governor, lieutenant governor, House speaker and Senate president, as well as the state comptroller and treasurer.

Only Gov. Robert L. Ehrlich Jr. and Lt. Gov. Michael Steele provided records in response to the initial inquiry. But the 509 pages of travel logs provided by the governor's office had been edited so much, they were virtually meaningless. Frequently, all 25 lines of information on a page had been blacked out.

A subsequent request for documents made by an attorney for *The Capital* produced documents last June that were only slightly less edited.

The governor's office and Maryland State Police successfully cited security as the reason for keeping the paper from reviewing the documents, even though all events had taken

place months earlier.

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