



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

September 12, 2019

Via electronic mail

Mr. John Kraft

[REDACTED]
john@illinoisleaks.com

Via electronic mail

Mr. James P. Kelly

Matuszewich & Kelly, LLP

OBO Algonquin Township

101 North Virginia Street, Suite 150

Crystal Lake, Illinois 60014

jpkelly@mkm-law.com

RE: OMA Request for Review – 2019 PAC 58725

Dear Mr. Kraft and Mr. Kelly:

This determination letter is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2018)). For the reasons that follow, the Public Access Bureau concludes that the Algonquin Township Board of Trustees (Board) did not violate the requirements of OMA in connection with its June 26, 2019, special meeting.

On June 26, 2019, Mr. John Kraft submitted this Request for Review to the Public Access Bureau alleging that the Board violated OMA during its June 26, 2019, special meeting by discussing subjects that were not specifically set forth under the agenda item "Any other business to come before the Board."¹ On July 9, 2019, this office sent a copy of the Request for Review to the Board and asked it to provide this office with a response to the allegations made in the Request for Review and copies of the notice, agenda, and minutes for the June 26, 2019,

¹Algonquin Township Board, Agenda Item (unnumbered), Any other business to come before the Board (June 26, 2019).

Mr. John Kraft
Mr. James P. Kelly
September 12, 2019
Page 2

special meeting. On August 9, 2019, the Board furnished a written response. Mr. Kraft did not submit a reply.

DETERMINATION

It is the "public policy of this State that its citizens shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way." 5 ILCS 120/1 (West 2018).

Section 2.02(a) of OMA

Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2018)) provides, in relevant part, that "[p]ublic notice of any special meeting except a meeting held in the event of a bona fide emergency, or of any rescheduled regular meeting, or of any reconvened meeting, shall be given at least 48 hours before such meeting, which notice shall also include the agenda for the special, rescheduled, or reconvened meeting[.]" Section 2.02(a) further states that "[t]he requirement of a **regular meeting agenda** shall not preclude the consideration of items not specifically set forth in the agenda." (Emphasis added.) Given this language, the Public Access Bureau has determined that, during **special** meetings, OMA does not permit a public body to discuss, topics that were not listed on the agenda. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 32604, issued April 9, 2015, at 3 ("The General Assembly's express provision for consideration of items not on the agenda at a regular meeting coupled with its silence concerning consideration of items not on the agenda at a special meeting signifies that the General Assembly did not intend to allow a public body to consider items that are not on the agenda of a special meeting.")

The Board's response to this office acknowledged that when asked by the chair if there was any additional business, each of its three trustees made statements, but noted that "[a]ll of these announcements were not in the form of discussions between the Board members, but rather were ad hoc public service announcements. There were no motions made or votes taken regarding any of the announcements."²

This office's review of the June 26, 2019, special meeting recording³ confirmed that each of the trustees made announcements concerning various upcoming community events and the status of applications for Board vacancies. The trustees did not engage in deliberative discussions on any of the topics presented, but rather presented their announcements

²Letter from James P. Kelly, Matuszewich & Kelly, LLP, to Christopher R. Boggs, Assistant Attorney General, Public Access Bureau (August 9, 2019), at 1.

³Algonquin Township Board, Special Meeting, June 26, 2019, Video File, *available at* https://www.youtube.com/watch?v=gYep0_PEKKg.

Mr. John Kraft
Mr. James P. Kelly
September 12, 2019
Page 3

individually. Such simple announcements do not rise to the level of "the consideration of items" under section 2.02(a) of OMA. Accordingly, under these circumstances, the Public Access Bureau concludes that the Board did not violate OMA.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. If you have any questions, please contact me at (217) 785-7438 or cboggs@atg.state.il.us. This letter serves to close this matter.

Very truly yours,

A black rectangular redaction box covering the signature of Christopher R. Boggs.

CHRISTOPHER R. BOGGS
Supervising Attorney
Public Access Bureau

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