

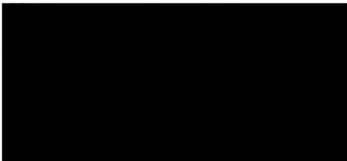


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 5, 2017

Via electronic mail



Via electronic mail

Mr. Gregory E. Moredock
Sorling Northrup, Attorneys
1 North Old State Capitol Plaza, Suite 200
P.O. Box 5131
Springfield, Illinois 62705
gemoredock@sorlinglaw.com

RE: OMA Request for Review – 2016 PAC 48602

Dear [REDACTED] and Mr. Moredock:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2016)). For the reasons that follow, the Public Access Bureau concludes that the Board of Trustees (Board) of the Village of Chatham (Village) failed to provide proper notice of a change to its regular meeting schedule in advance of its May 9, 2017, and June 13, 2017, regular meetings.

On July 6, 2017, [REDACTED] submitted a Request for Review alleging that although the Board amended its annual schedule of regular meetings on February 28, 2017, adding regular meetings on May 9, 2017, and June 13, 2017, it failed to provide at least 10 days' notice of the change in a local newspaper and failed to update its posted regular meetings schedule in accordance with section 2.03 of OMA (5 ILCS 120/2.03 (West 2016)). [REDACTED] stated that Ordinance No. 17-10¹ added regular meetings for the second Tuesday of each month. He also stated that the Board had subsequently published notice of the schedule change in the *Chatham*

¹Village of Chatham, Ordinance No. 17-10: An Ordinance Amending the Village Code Establishing Two Regular Village Board Meetings Per Month and the Time for the Committee of the Whole Meetings (Feb. 28, 2017).

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Clarion on June 22, 2017. Additionally, ██████████ alleged that the Village had committed forgery by adding the June 13, 2017, meeting to the Village's online event calendar after the meeting had occurred.

On July 11, 2017, this office forwarded a copy of the Request for Review to the Board and asked it to provide this office with copies of any notices and minutes of the May 9, 2017, and June 13, 2017, meetings, together with a written explanation of where and when notice of the changes to the Board's regular meeting schedule was posted. On July 19, 2017, the Board provided a written response. On July 31, 2017, ██████████ submitted a reply, reiterating his claims. On August 7, 2017, the Board submitted a response to ██████████ reply. On August 14, 2017, ██████████ informed this office that he had nothing further to add.

DETERMINATION

Under section 1 of OMA (5 ILCS 120/1 (West 2016)), 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."

As an initial matter, the Public Access Counselor's authority to resolve disputes is limited to alleged violations of OMA and the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2016)). See 15 ILCS 205/7(c)(3) (West 2016). The provision of the Criminal Code of 2012 pertaining to forgery that ██████████ cited (720 ILCS 5/17-3 (West 2016)) is outside the scope of OMA and FOIA. Therefore, this office is not authorized to review that allegation.

Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2016)) provides, in pertinent part: "Every public body shall give public notice of the schedule of regular meetings at the beginning of each calendar or fiscal year and shall state the regular dates, times, and places of such meetings." Section 2.02(b) of OMA (5 ILCS 120/2.02(b) (West 2016)) adds:

[A] public body that has a website that the full-time staff of the public body maintains shall post notice on its website of all meetings of the governing body of the public body. Any notice of an annual schedule of meetings shall remain on the website until a new public notice of the schedule of regular meetings is approved.

Furthermore, section 2.03 of OMA provides, in pertinent part:

[E]ach body subject to this Act must, at the beginning of each calendar or fiscal year, prepare and make available a schedule of

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all its regular meetings for such calendar or fiscal year, listing the times and places of such meetings.

If a change is made in regular meeting dates, at least 10 days' notice of such change shall be given by publication in a newspaper of general circulation in the area in which such body functions. * * * Notice of such change shall also be posted at the principal office of the public body[.]

In its July 19, 2017, response to this office, the Board acknowledged that the passage of Ordinance 17-10 on February 28, 2017, changed the Board's regular meeting dates. While the Board previously held only Committee of the Whole meetings on the second Tuesday of each month, it would begin holding regular meetings on those dates, including May 9, 2017, and June 13, 2017. After the latter meeting, the Board asserted, it realized that it had not provided notice of the change to its annual schedule of regular meetings. The Board stated that it then published notice of the change and posted revised schedules at Village Hall and on the Village's website. Yet, because it had posted agendas for the May 9, 2017, and June 13, 2017, meetings at Village Hall and on the Village's website at least 48 hours in advance of the meetings in accordance with sections 2.02(a) and 2.02(b) of OMA, the Board claimed, the meetings were not "illegal" as ██████████ had alleged.² ██████████ replied that the Board nonetheless had failed to provide 10 days' notice of the addition of the May 9, 2017, and June 13, 2017, regular meetings in a newspaper, and also had failed to post the revised meeting schedule at Village Hall and on the Village's website in a timely manner. The Board responded that it had taken steps to remedy the errors.

It is undisputed that the Board did not, at least 10 days in advance of its May 9, 2017, and June 13, 2017, meetings, publish notice that it had revised its regular meeting schedule to add new regular meetings on those dates. It is also undisputed that the Board did not post the revised regular meetings schedule at Village Hall or on its website until after those two meetings were held. Accordingly, this office concludes that the Board violated the regular meeting schedule requirements of sections 2.02 and 2.03 of OMA. Because it is also undisputed that the Board properly posted agendas for both meetings³ and because the Board has taken steps to correct its errors, no further remedial action is required under the circumstances of this matter. This office cautions the Board to follow all of the requirements of OMA in the future.

²Letter from Gregory E. Moredock, Sorling Northrup, Attorneys, to Joshua M. Jones, Assistant Attorney General, Office of the Attorney General, Public Access Bureau (July 19, 2017), at 2.

³This office has not received information indicating that any member of the public who would have attended missed either meeting as a result of the lack of a revised regular meetings schedule.

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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 (312) 814-8413 or the Chicago address on the first page of this letter. This letter shall serve to close this matter.

Very truly yours,

[REDACTED]
JOSHUA M. JONES
Deputy Bureau Chief
Public Access Bureau

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