



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Kwame Raoul
ATTORNEY GENERAL

January 9, 2020

Mr. John Kraft

Mr. William Ingram
Commissioner and Interim Chairman
Vermilion Regional Airport Authority
Board of Commissioners
Vermilion Regional Airport
22633 North Bowman Avenue, Suite 1
Danville, Illinois 61834

RE: OMA Request for Review – 2019 PAC 53675

Dear Mr. Kraft and Mr. Ingram:

This determination 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 stated below, this office concludes that the Vermilion Regional Airport Authority (Airport Authority) Board of Commissioners (Board) violated OMA by failing to provide the public with advance notice of action taken during the Board's June 19, 2018, meeting.

In his Request for Review, Mr. John Kraft alleged that at its June 19, 2018, meeting, the Board took final action to terminate its airport manager and hire a new airport manager without providing advance notice of those final actions on the meeting agenda. He also questioned whether final actions on those matters were taken in closed session.

On June 26, 2018, this office sent a copy of the Request for Review to the Board and asked it to provide copies of the agenda, open and closed session meeting minutes (draft form if necessary), and the closed session verbatim recording, if any, of the Board's June 19, 2018, meeting. We also requested a written response to Mr. Kraft's allegations that addresses whether the Board took final action to hire and/or fire the airport manager during the meeting.

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On July 13, 2018, this office received the Board's response. On July 20, 2018, Mr. Kraft submitted a reply in which he withdrew his allegation that the Board improperly took final action in closed session.

DETERMINATION

Section 1 of OMA (5 ILCS 120/1 (West 2018)) provides "it to be 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." Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2018)) provides 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[.]" (Emphasis added.) Section 2.02(a) further provides: "Notice of an emergency meeting shall be given as soon as practicable, but in any event prior to the holding of such meeting, to any news medium which has filed an annual request for notice under subsection (b) of this Section." In addition, section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2018)) provides: "Any agenda required under this Section shall set forth the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting."

The draft minutes of the Board's June 19, 2018, meeting indicate that Mike Potter addressed the Board in open session and stated that he would like to tender his resignation, and that the Board voted to accept his resignation. The minutes also indicate that the Board voted to appoint Mr. Mike Vadeboncoeur to serve as acting airport manager. The meeting agenda does not contain any reference to the employment status of the airport manager or the general subject matter of any action to accept the airport manager's resignation or to appoint an acting airport manager. The Board's response to this office denied that Mr. Potter was terminated or that Mr. Vadeboncoeur was appointed the permanent airport manager at the meeting. The response further stated that neither the acceptance of the resignation nor the appointment of the acting airport manager appeared on the meeting agenda because the unexpected resignation of the airport manager "presented an emergency situation for the [Airport Authority] as to the operation of the airport."¹ In his reply, Mr. Kraft stated that OMA does not authorize public bodies to take final action without providing advance even if a legitimate emergency exists.

The Board's June 19, 2018, meeting was not an emergency meeting; the Board's response to this office stated that it was a regular meeting. Even assuming that the airport manager's request to tender his resignation created a "bona fide emergency", within the meaning of section 2.02(a), which justified holding an emergency meeting without providing at least 48 hours of advance notice, the Board could have convened an emergency meeting after providing advance notice to the extent possible. Section 2.02(c) of OMA does not contain an exception

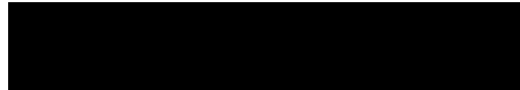
¹Letter from Dave Kietzmann, Chairman, Vermilion Regional Airport Authority, to Office of the Attorney General, State Silverman, Bureau Chief, Public Access Bureau (July 11, 2018).

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that authorizes a public body to immediately act at a regular meeting to address a situation that it perceives as an emergency when the general subject matter of that final action does not appear on the meeting agenda. Accordingly, this office concludes that the Board violated OMA during its June 19, 2018, meeting by failing to provide advance notice of its actions to accept the airport manager's resignation and to appoint an acting airport manager. Because the Board voted to appoint the acting airport manager as its permanent airport manager at its subsequent meeting in July 2018,² no further action is required to remedy this violation.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This file is closed. If you have any questions, please contact me at (312) 814-6756.

Very truly yours,



STEVE SILVERMAN
Bureau Chief
Public Access Bureau

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²Larry Smith, Board names new airport director, COMMERCIAL-NEWS (July 18, 2018), https://www.commercial-news.com/news/local_news/board-names-new-airport-director/article_0bcd4c03-4669-5039-bf52-1a2b1dc4d2aa.html