



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 21, 2023

Via electronic mail
Mr. John Bambenek

[REDACTED]
john@mahometleaks.com

RE: OMA Request for Review – 2023 PAC 76015

Dear Mr. Bambenek:

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2020)). For the reasons explained below, this office has determined that no further action is warranted as to this matter.

On March 27, 2023, you submitted the above-referenced Request for Review alleging that the Sangamon Valley Public Water District Board of Trustees (Board) violated OMA at its March 27, 2023, meeting by voting to approve a contract listed on the agenda but failing to indicate that it would take action on the item. This office construes your Request for Review as alleging a violation of section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2020)). You provided this office with the meeting agenda and a link to a video of the meeting.

Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2020)) provides that "[a] person who believes that a violation of this Act by a public body has occurred may file a request for review with the Public Access Counselor[,]" and that the submission "must include a summary of the facts supporting the allegation." Section 2.02(c) of OMA provides, in pertinent part: "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." (Emphasis added.) The Public Access Bureau has determined that "the General Assembly's use of the term 'general subject matter' signifies that a meeting agenda must set forth the main element(s), rather than the specific details, of an item on which the public body intends to take final action." Ill. Att'y Gen. PAC Req. Rev. Ltr. 45667, issued February 16, 2017, at 4-5 (determining that agenda item "appointment of the city administrator" adequately described the general subject matter of public body's final action to approve a five-year employment contract for the city administrator).

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Additionally, the Public Access Bureau has determined that the language of section 2.02(c) of OMA "requires a public body's agenda to identify the general subject matter of final action – not what particular action will be taken by a public body." Ill. Att'y Gen. PAC Req. Rev. Ltr. 39177, issued February 2, 2016, at 3-4 (determining that agenda item "Illinois Rt. 53/120 Project Environmental Impact Statement" did not violate section 2.02(c) of OMA because by inclusion on the agenda, it could be inferred that the Board anticipated taking final action on the matter).

The agenda for the Board's March 27, 2023, meeting includes "Veolia Operation, Maintenance, Management Contract," but does not specify the action to be taken on that item.¹ The item was listed under the "Business"² section of the agenda, which does not indicate or infer that the Board would merely receive information or discuss the matter without taking action. This office's review of the recording you provided confirms that the Board voted to pursue negotiations on the specified contract. The agenda item describes the main elements of the item that the Board voted on. Although the Board could have better informed the public by providing additional information regarding its planned course of action on the contract, OMA does not require a public body to provide advance notice of the specific type of action it will take after deliberating. Because the Board provided sufficient advance notice of the general subject matter of the item it acted upon in accordance with section 2.02(c) of OMA, this office has determined that no further action is warranted as to this matter.

If you have any questions, you may contact me at benjamin.silver@ilag.gov. This letter serves to close this matter.

Very truly yours,



BENJAMIN J. SILVER
Assistant Attorney General
Public Access Bureau

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¹Sangamon Valley Public Water District, Agenda Item 4.C (March 27, 2023).

²Sangamon Valley Public Water District, Agenda Item 4 (March 27, 2023).

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cc: *Via electronic mail*
The Honorable Meghan Hennesy
Chairman
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