

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 7, 2017



Via electronic mail
Mr. Dave Barnes, Sr.
Supervisor
St. Clair Township Board of Trustees
107 Service Street
Swansea, Illinois 62226
dave@stclairtownship.com

RE: OMA Request for Review – 2017 PAC 41778

Dear [REDACTED] and Mr. Barnes:

This determination letter 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 St. Clair Township Board of Trustees (Board) violated OMA by failing to provide proper advance notice for its April 26, 2016, meeting.

On May 6, 2016, [REDACTED] submitted a Request for Review to the Public Access Bureau alleging that the Board violated the requirements of OMA by rescheduling a regularly scheduled April 26, 2016, meeting to April 19, 2016, without posting proper notice in the local newspaper and at the Township office. On June 2, 2016, this office forwarded a copy of the Request for Review to the Board and asked it to provide this office with copies of the agenda, open session minutes, and open session recording (if one was made) of the April 19, 2016, meeting.

On June 6, 2016, the Board provided this office with copies of the agenda and open session minutes for the April 19, 2016, meeting, and Mr. Barnes provided a brief written response on behalf of the Board. On February 8, 2017, this office forwarded the Board's response to [REDACTED]; he did not submit a reply.

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DETERMINATION

"The Open Meetings Act provides that public agencies exist to aid in the conduct of the people's business, and that the intent of the Act is to assure that agency actions be taken openly and that their deliberations be conducted openly." *Gosnell v. Hogan*, 179 Ill. App. 3d 161, 171 (5th Dist. 1989).

Section 2.03 of OMA (5 ILCS 120/2.03 (West 2016)) provides:

In addition to the notice required by Section 2.02, each body subject to this Act must, at the beginning of each calendar or fiscal year, prepare and make available a schedule of 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 or, if no such office exists, at the building in which the meeting is to be held. Notice of such change shall also be supplied to those news media which have filed an annual request for notice as provided in paragraph (b) of Section 2.02. (Emphasis added.)

Under the plain language of section 2.03 of OMA, only a change in the regular meeting **dates** requires ten days' advance notice by publication. If, for example, a public body changed its regular monthly meeting from the first Monday of each month to the second Tuesday of the month, notice by publication would be required. There is no requirement to notify the public of one rescheduled meeting outside of posting notice and an agenda 48 hours before a meeting as required by section 2.02 of OMA.

To that end, section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2016)) provides, in pertinent part:

An agenda for each regular meeting shall be posted at the *principal office of the public body and at the location where the meeting is to be held* at least 48 hours in advance of the holding of the meeting. A public body that has a website that the full-time staff of the public body maintains shall also post on its website the

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agenda of any regular meetings of the governing body of that public body. * * * Public 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[.] (Emphasis added.)

██████████ alleges that the Board failed to post notice at the Township office and in the local newspaper. In its response to that allegation, the Board stated: "Due to the Board only rescheduling a meeting, 'not changing the entire schedule', we only needed to furnish the notice and agenda to the registered news media."¹

Although OMA did not require the Board to post notice of a single rescheduled meeting in the local newspaper, section 2.02(a) did require the Board to post such notice at least 48 hours before the rescheduled meeting at the Board's principal office and at the location of the meeting. The Board's June 6, 2016, response to this office indicated that it only furnished notice of the April 19, 2016, meeting to the news media, and did not dispute ██████████ allegation that notice for the meeting was not posted at the location of the meeting and at the Board's principal office. Because the available information indicates that the agenda for the Board's April 19, 2016, regular meeting was not continuously available for public review during the entire 48-hour period preceding the meeting, this office concludes that the Board violated section 2.02(a) of OMA.


While there are no means for the Board to remedy its violation in this instance, the Board should be mindful of its obligation to provide proper advance notice for rescheduled meetings in accordance with section 2.02(a) of OMA.

¹Letter from Dave Barnes, Supervisor, St. Clair Township, to Office of the Attorney General, Attn: S. Piya Mukherjee (June 6, 2016).


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The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any questions, please contact me at (312) 814-5383 or at the Chicago address on the bottom of the first page of this letter.

Very truly yours,


S. PIYA MUKHERJEE
Assistant Attorney General
Public Access Bureau

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