



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

September 17, 2019

Via electronic mail

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Mr. Scott Spears
Assistant Corporation Counsel
City of Chicago Law Department
30 North LaSalle Street, #700
Chicago, Illinois 60602
Scott.spears@cityofchicago.org

RE: OMA Request for Review – 2019 PAC 57900; 57903; 57916

Dear [REDACTED] and Mr. Spears:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (5 ILCS 120/3.5(e) (West 2018)).

Between April 30, 2019, and May 1, 2019 [REDACTED] submitted three Requests for Review alleging that the City of Chicago City Council's (City Council) Committee on Finance, Committee on Housing and Real Estate, and Committee on Committees, Rules and Ethics (Committees) violated OMA in connection with those Committees' meeting minutes. Specifically [REDACTED] alleged that the Committees did not include votes to approve meeting minutes on any agendas in the previous twelve months. She questioned whether the Committees approved or kept meeting minutes, and alleged that they failed to make meeting minutes available to the public on the City Council's website or in its Journal of Proceedings.

On May 9, 2019, this office sent copies of the Requests for Review to each of the Committees and asked them to provide copies of agendas for the Committees' last five meetings and minutes of any of those meetings that have been compiled and finalized. We also asked the Committees to explain their processes for compiling and finalizing minutes, and to clarify whether the Committees vote to approve minutes during open meetings. On May 31, 2019, the

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City's Law Department provided written responses on behalf of each of the Committees together with copies of agendas and monthly reports of Committee proceedings that are required to be submitted to the City Council under its rules of order and procedures. Apart from requesting copies of those agendas and reports ██████████ did not reply.

DETERMINATION

Section 2.06(a) of OMA (5 ILCS 120/2.06(a) (West 2018)) provides"

- (a) All public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording. Minutes shall include, but need not be limited to:
- (1) the date, time and place of the meeting;
 - (2) the members of the public body recorded as either present or absent and whether the members were physically present or present by means of video or audio conference; and
 - (3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

Section 2.06(b) of OMA (5 ILCS 120/2.06(b) (West 2018)) further requires each public body to "approve the minutes of its open meeting within 30 days after that meeting or at the public body's second subsequent regular meeting, whichever is later[,]" and to make minutes "available for public inspection within 10 days after the approval of such minutes by the public body."

The Committees' responses to this office asserted that they complied with the above provisions by preparing monthly reports detailing their activities which are approved by the City Council and incorporated into its Journal of Proceedings. The responses stated that the reports consist of a description of each item considered, a statement showing the number of Committee members voting for or against the item, and a recommendation for action to be taken by the City Council. The responses added that the City Council recently amended its rules to require the City Clerk to post the reports online, and stated that the City's Law Department has recommended all committees approve reports of their meetings. The responses also stated that the Law Department is working with chairs of City Council committees to improve the reports and their content.

¹Section 3.5(g) of OMA (5 ILCS 120/3.5(g) (West 2018)) provides that "[r]ecords that are obtained by the Public Access Counselor from a public body for purposes of addressing a request for review under this Section 3.5 may not be disclosed to the public, including the requester, by the Public Access Counselor." Therefore, this office was unable to provide ██████████ with the agendas and reports.

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This office has reviewed copies of the Committees' monthly reports that were submitted for our review and determined that they do not contain all of the information that section 2.06(b) of OMA requires for meeting minutes. Although the reports generally indicate whether action items passed, failed, or were held over, the reports do not include a summary of discussion on all matters proposed, deliberated, or decided as expressly required by section 2.06(a) of OMA. Some of the reports issued by the Committee on Committees, Rules and Ethics do indicate that aldermen discussed or made comments on certain agenda items, but the reports do not summarize the discussion or comments. Further, the reports were not approved by the Committees, which constitute public bodies that are separate from the City Council.² The plain language of section 2.06(b) of OMA requires a public body that holds a meeting to approve the minutes of that meeting. Because the reports do not constitute meeting minutes approved by the Committees or contain the requisite detail for meeting minutes, this office concludes that the Committees violated section 2.06 of OMA.³

To remedy these violations, this office requests that the Committees compile minutes of future meetings which contain all details required by section 2.06(a) of OMA, and approve them in accordance with the time frame set out in section 2.06(b) of OMA. It appears that the Committees may already be doing so. In a September 13, 2019, telephone call with an Assistant Attorney General in the Public Access Bureau, an Assistant Corporation Counsel in the City's Law Department stated that City Council committees are now including the approval of monthly reports as agenda items and providing details of the committees' discussions in those reports.

²Section 1.02 defines (5 ILCS 120/1.02 (West 2018)) defines "public body" to include "all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue[.]

³With respect to ██████████'s assertion that the Committees' meeting minutes should be posted online, section 2.06(b) of OMA provides "a public body that has a website that the full-time staff of the public body maintains shall post the minutes of a regular meeting of its **governing body** open to the public on the public body's website." (Emphasis added.) Because the City Council is the City's governing body, the committees may—but are not required—to post minutes on the City's website.

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The Public Access Counselor has determined that resolution of these matters does not require the issuance of a binding opinion. If you have any questions, please contact me at (312) 814-6756. These files are closed.

Very truly yours,

[REDACTED]
STEVE SILVERMAN
Bureau Chief
Public Access Bureau

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