

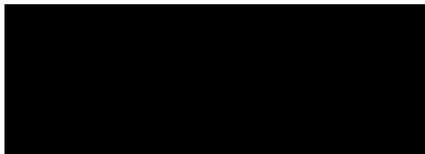


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 23, 2017

Via electronic mail



Via electronic mail

Ms. Melissa M. Wolf
Storino, Ramello & Durkin
9501 West Devon Avenue
Rosemont, Illinois 60018
melissa@srd-law.com

RE: OMA Request for Review – 2017 PAC 46954

Dear [REDACTED] and Ms. Wolf:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2015 Supp.)). For the reasons explained below, the Public Access Bureau concludes that the Township of Schaumburg Board of Trustees (Board) violated OMA by failing to approve the minutes of its December 14, 2016, Committee of the Whole meeting in a timely manner.

BACKGROUND

On March 20, 2017, this office received [REDACTED] Request for Review alleging that meeting minutes of the Committee of the Whole's December 14, 2016, meeting had not been approved. He contended that although the Committee of the Whole had not met since December 14, 2016, the Board had since met and should have approved the minutes.¹

¹Although [REDACTED] styled his Request for Review as being under both the Freedom of Information Act, (FOIA) (5 ILCS 140/1 et seq. (West 2014)), and OMA, no FOIA violation was alleged therefore this office treated the Request for Review as an OMA matter only.

On April 4, 2017, this office sent a copy of the Request for Review to the Township Supervisor and requested that the Committee of the Whole or its representative provide a written response to [REDACTED] allegation that the neither the Committee of the Whole nor the Board approved the minutes of the December 14, 2016, Committee of the Whole meeting in a timely fashion. We asked the Committee of the Whole whether it held a meeting on December 14, 2016, and to provide the dates of all subsequent meetings the Committee has held, as well as the dates of all Board meetings held since December 14, 2016. We also asked that the Committee of the Whole's response: (1) address whether the Committee of the Whole is a separate public body from the Board; (2) provide a list of the members of the Committee of the Whole and the Board; and (3) explain whether a quorum of the Committee of the Whole members were present at any of the Board's meetings held since December 14, 2016. We asked the Committee of the Whole to provide copies of the minutes and the agenda for the Committee of the Whole's December 14, 2016, meeting, and copies of all minutes and agendas for all subsequent Committee of the Whole and Board meetings. On April 13, 2017, the Township of Schaumburg (Township) responded on behalf of the Committee of the Whole. [REDACTED] did not reply. On May 9, 2017, the Township provided a supplemental response stating that the Committee of the Whole held a special meeting on April 25, 2017, during which it approved the December 14, 2016, meeting minutes.²

DETERMINATION

Section 2.06(b) of OMA (5 ILCS 120/2.06(b) (West 2014), as amended by Public Act 99-515, effective June 30, 2016) provides, in part, that:

A public body shall 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. The minutes of meetings open to the public shall be available for public inspection within 10 days after the approval of such minutes by the public body.

In its response to this office, the Township explained that the Committee of the Whole has not held a meeting since December 14, 2016; it cancelled meetings scheduled for January 18, 2017, February 15, 2017, March 15, 2017, and April 18, 2017. The next meeting of the Committee of the Whole was scheduled for May 17, 2017. The Township argued that it had not violated OMA by not yet approving the December 14, 2016, meeting minutes because the Committee of the Whole has not held its second subsequent meeting since December 14, 2016.

²E-mail from Melissa Wolf to Laura Harter (May 9, 2017).

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The Township also explained that the Board has held its regular Board meetings on January 25, 2017, February 22, 2017, and March 22, 2017. The Township explained that the members of the Committee of the Whole are the same as the members of the Board, but it argued that the two public bodies are separate and that the Board has never approved minutes from Committee of the Whole meetings. The Township asserted that the public bodies meet on different days of the month and maintain separate duties and responsibilities. The Township explained that the Committee of the Whole serves as a forum for information gathering and discussion of Township issues, but it does not take final action on Township matters.

Contrary to the Township's assertions, committees of the whole are not separate public bodies from boards, but rather, provide a different meeting format for boards. *See Black's Law Dictionary* (10th ed. 2014), committee, available at Westlaw BLACKS ("A deliberative assembly may resolve itself into a committee of the whole so that it can take advantage of the greater procedural flexibility that a committee enjoys, usu. presided over by some chair other than the assembly's regular chair."). Here, the Township explained that the two groups have the same members, but the Committee of the Whole does not take final action on Township matters. These facts support a finding that rather than acting as an independent public body, the Committee of the Whole functions as the Board operating under relaxed rules. Because the Board and the Committee of the Whole are essentially the same entity, section 2.06(b) of OMA required the Board to approve minutes of the Committee of the Whole's December 14, 2016, meeting minutes within 30 days of that meeting or at the Board's second subsequent meeting, held on February 22, 2017. It did not do so. Therefore, this office concludes that the Board violated section 2.06(b) of OMA.

Because the Committee of the Whole approved the December 14, 2016, meeting minutes at its April 25, 2017, special meeting, no remedial action is necessary. Nonetheless, this office reminds the Board to adhere to the requirements outlined in section 2.06(b) of OMA for approving meeting minutes in a timely fashion.

In his Request for Review, ██████████ also alleges that the Committee of the Whole's cancellation of its meetings is a violation of OMA. The Public Access Counselor's authority to resolve disputes is limited to alleged violations of OMA and the Freedom of Information Act (5 ILCS 140/1 *et seq.* (West 2014)). *See* 15 ILCS 205/7(c)(3) (West 2014). Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2015 Supp.)) 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." Neither FOIA nor OMA restrict a public body's ability to cancel its meetings. Therefore, ██████████ allegations regarding the Committee of the Whole's meeting cancellations are not subject to review by this office.

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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 the Springfield address on the first page of this letter. This letter serves to close this file.

Very truly yours,

[REDACTED]
LAURA S. HARTER
Assistant Attorney General
Public Access Bureau

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cc: *Via electronic mail*
The Honorable Mary Wroblewski, Supervisor
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