



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

July 2, 2024

Via electronic mail



Via electronic mail

Mr. Brian Lawlyes
Attorney for the Village of Bismarck
Acton & Snyder, LLP
220 North Vermilion Street
Danville, Illinois 61832
brian@acton-snyder.com

RE: OMA Request for Review – 2022 PAC 74390

Dear [REDACTED] and Mr. Lawlyes:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2022)). For the reasons that follow, the Public Access Bureau concludes that the Village of Bismarck (Village) Planning Commission (Commission) violated OMA in connection with its September 20, 2022, meeting.

BACKGROUND

On October 31, 2022, the Public Access Bureau received [REDACTED] Request for Review alleging that the Commission did not allow the public to attend a portion of its September 20, 2022, meeting following a public hearing on a zoning reapplication. [REDACTED] [REDACTED] included a copy of the meeting minutes, which stated that the Commission "held a separate meeting as a commission committee to discuss" following public participation.¹

¹Bismarck Planning Commission Meeting Notes (September 20, 2022).

500 South 2nd Street
Springfield, Illinois 62701
(217) 782-1090 • Fax: (217) 782-7046

115 South LaSalle Street
Chicago, Illinois 60603
(312) 814-3000 • Fax: (312) 814-3806

1745 Innovation Drive, Suite C
Carbondale, Illinois 62903
(618) 529-6400 • Fax: (618) 529-6416

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██████████
Mr. Brian Lawlyes
July 2, 2024
Page 2

On November 29, 2022, this office sent a copy of the Request for Review to the Commission and asked it provide a written response to the allegation. On December 6, 2022, the Commission provided its response. On December 9, 2022, this office forwarded a copy of the Commission's response to ██████████ on December 20, 2022, she replied.

DETERMINATION

It is 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." 5 ILCS 120/1 (West 2022). "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 (1989).

Section 2(a) of OMA² provides, in relevant part, that "[a]ll meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." Section 2.01 of OMA³ further provides, in relevant part, that "[a]ll meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public[.]"

In its response to this office, the Commission stated that, although its September 20, 2022, meeting was scheduled to occur at the Village Office, the public comment portion of the meeting was moved to a larger location to accommodate a large crowd. The Commission recounted, however, that it returned to the Village Office following public participation. The Commission also recounted that "[t]he public was allowed to return to the Village Office also, but most did not do so. The Village Office doors remained open and the public was not excluded."⁴ The Commission further argued that it did not hold a separate meeting, and that its draft minutes were incorrect in stating that it did so.

In her reply, ██████████ recounted that the public was told to leave following public participation so that the Commission could discuss the rezoning request at issue and that the public was not told that the Commission would be returning to the Village Office to continue the meeting. She further noted that she stood with several people outside the office and did not see the Commission return to the office. Additionally, she questioned the need to return to the Village Office when the new space could better accommodate the large crowd.

²5 ILCS 120/2(a) (West 2022), as amended by Public Act 103-311, effective July 28, 2023.

³5 ILCS 120/2.01 (West 2022).

⁴Letter from Brian C. Lawlyes, Acton & Snyder, LLP, to Benjamin J. Silver, Assistant Attorney General, Public Access Bureau (December 6, 2022), at 2.

