



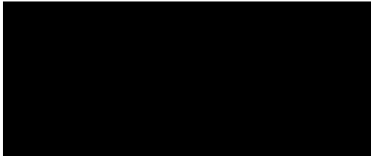
OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Kwame Raoul
ATTORNEY GENERAL

August 20, 2019

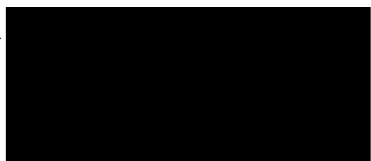
Via electronic mail
Mr. John Kraft
john@illinoisleaks.com

Via electronic mail



Via electronic mail
The Honorable JoAnn Quigley
Supervisor
Wesley Township
21333 Ballou Road
Wilmington, Illinois 60481
Wesleysuper2017@outlook.com

Via electronic mail



RE: OMA Request for Review – 2019 PAC 58555; 2019 PAC 58614; 2019 PAC 58615

Dear Mr. Kraft, [REDACTED], [REDACTED], and Ms. Quigley:

This determination letter is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2018)). For the reasons that follow, the Public Access Bureau concludes that the Wesley Township Board of Trustees (Board) violated OMA by improperly taking final action outside of an open meeting.

In June 2019, Mr. John Kraft, [REDACTED], and [REDACTED] submitted Requests for Review alleging that the Board prohibited camping at the Township Park (Park) without complying with the requirements of OMA. In support of those allegations, each submission alluded to a video of the Board's June 13, 2019, meeting which is posted on the internet. The video shows a member of the public questioning why "no camping" signs were placed in the Park without the Board taking action to prohibit camping during an open meeting. The Township supervisor responded that "we had a situation, we acted on it. It was in our estimation an emergent situation that we needed to stop any more problems with the Park, with

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[REDACTED]
[REDACTED]

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the camping area. Four Board members agreed that we needed to stop the camping."¹ The member of the public replied that he could not recall the Board reaching such an agreement at a Board meeting.

On June 24, 2019, this office sent copies of the Requests for Review to the Board and asked it to provide a written response to the allegation that the Board held a private gathering and took action to prohibit camping at the Park. If the Board had prohibited camping at the Park, we asked the Board to explain when and how that decision was made and to describe how Board members communicated about the matter and reached a consensus. On July 2, 2019, the Township supervisor responded that the Board did not hold any meetings about camping at the Park. Instead, she stated that after problems at the Park which resulted in the involvement of police were reported to Board members, "[t]he supervisor was contacted by phone or in person by each of the four Board members."² The response further stated, in pertinent part:

Each board member stated they wanted camping at the Park suspended until further notice. The trustees felt the enjoyment [of] Park patrons camping was being interfered with by dissenting residents.

A notice of no camping at the Park until further notice was placed in the local paper and at the Park. It was also made available on the township website.^[3]

[REDACTED] and [REDACTED] replied to that response by asserting that the Township supervisor's explanation demonstrated that the Board violated OMA by improperly taking final action outside of an open meeting.

DETERMINATION

OMA is intended "to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2018). Section 2(e) of OMA

¹Wesley Township Board of Trustees, Meeting, June 12, 2019, Video File, available at <https://www.youtube.com/watch?v=cm6OYWteso8&feature=youtu.be> (last visited August 16, 2019).

²E-mail from JoAnn Quigley, Wesley Township Supervisor, to [Steve] Silverman (July 2, 2019).

³E-mail from JoAnn Quigley, Wesley Township Supervisor, to [Steve] Silverman (July 2, 2019).

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(5 ILCS 120/2(e) (West 2018)) provides that "[n]o final action may be taken at a closed meeting. Final action shall be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted." A public body must post an agenda that sets forth "the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting." 5 ILCS 120/2.02(c) (West 2018).

It is permissible for a public body to take a preliminary vote in a closed session, but all final actions must be taken in an open meeting. *Board of Education of Springfield School District No. 186 v. Attorney Gen. of Illinois*, 2017 IL 120343, ¶¶ 73-74, 77 N.E.3d 625, 637 (2017); *see also Howe v. Retirement Board of the Firemen's Annuity & Benefit Fund, Howe*, 2013 IL App (1st) 122446, ¶29, 996 N.E.2d 664, 670 (2013) (vacating the board's decision to deny disability benefits because the board had circulated the decision for signatures privately rather than voting on it in open session); *Lawrence v. Williams*, 2013 IL App (1st) 130757, ¶ 21, 988 N.E.2d 1039, 1043-44 (2013) (finding electoral board's written decision null and void because the decision was not made in an open meeting).

The Board's response to this office stated that camping was prohibited at the Park after four Board members contacted the Township supervisor and indicated that they wanted camping suspended until further notice. Although there is no indication that the five-member Board⁴ held an improper "meeting" as that term is defined by OMA,⁵ the Board members manifested a collective decision to prohibit camping at the Park through their communications with the Township supervisor. The Board has not asserted that this decision was subsequently ratified at an open meeting after the Board provided proper advance notice, a public recital of its final action, and otherwise complied with the requirements of OMA. Further, the decision to prohibit camping at the Park was implemented by posting "no camping" notices at the Park and

⁴The Township Board consists of the Township supervisor and four Board members. 60 ILCS 1/80-5 (West 2018).

⁵Section 1.02 of OMA (5 ILCS 120/1.02 (West 2018)) defines "meeting" as:

any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business. (Emphasis added.) There is no indication that three or more members of the five-member Board engaged in contemporaneous interactive communications concerning the Park.

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[REDACTED]

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on the Village's website. Even if the Board considered the problems at the Park an emergency, OMA still requires a public body addressing a "bona fide emergency" to take final action in open session.⁶ Accordingly, this office concludes that the Board violated section 2(e) of OMA.

In accordance with the conclusions expressed above, this office requests that the Board remedy its violation of OMA by reconsidering and taking final action concerning camping at the Park during an open meeting in which it fully complies with the requirements of OMA. 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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⁶Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2018)) provides that "[p]ublic 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[.]" Because the Board did not hold a meeting, the question of whether the camping problems constituted a bona fide emergency is not at issue in this matter.