



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

May 28, 2019

Via electronic mail

Mr. Kirk Allen
P.O. Box 593
Kansas, Illinois 61933
kirk@illinoisleaks.com

Via electronic mail

Mr. James P. Kelly
Matuszewich & Kally, LLP
101 North Virginia Street, Suite 150
Crystal Lake, Illinois 60014
maselvey@mkm-law.com

RE: OMA Request for Review – 2019 PAC 56613

Dear Mr. Allen and Mr. Kelly:

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 that follow, the Public Access Bureau concludes that the Board of Trustees (Board) of Algonquin Township (Township) violated the Open Meetings Act (OMA) (5 ILCS 120/1 *et seq.* (West 2016)) by failing to post its annual schedule of regular meetings for 2018-2019.

On January 28, 2019, this office received Mr. Kirk Allen's Request for Review alleging that the Board's annual schedule of meetings was not posted at the Township office or on the Township's website. This office determined that further action was warranted only as to the question of whether the schedule was posted at the Township office. On February 21, 2019, this office forwarded a copy of the Request for Review to the Board and asked it to provide a written response to the allegation that the annual schedule of meetings was not posted at the Township's office. On April 8, 2019, the Township's outside counsel responded to the Public Access Bureau on behalf of the Board, asserting:

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For an unknown reason the paper copy of the annual regular meeting schedule posted on the Township bulletin board, in the Township Hall, was not posted on the date of your original request of February 21, 2019. The day after your February 21, 2019, Request for Review the annual regular board meeting schedule was re-posted. It is unknown who or why the schedule was removed.^[1]

The Board also asserted that the Township "has posted on its web page the regular monthly meeting schedule for the full fiscal year."² In reply, Mr. Allen noted that the Board's response acknowledged that the meeting schedule had not been posted as required.

Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2016)) provides, in relevant part: "Every public body shall give public notice of the schedule of regular meetings at the beginning of each calendar year or fiscal year and shall state the regular dates, times, and places of such meetings." Additionally, section 2.03 of OMA (5 ILCS 120/2.03 (West 2016)) provides, in relevant part, "[i]n addition to the notice required by Section 2.02, each body subject to this Act must, at the beginning of each calendar year or fiscal year, prepare and make available a schedule of all its regular meeting for such calendar or fiscal year, listing the times and places of such meetings."

Finally, section 2.02(b) of OMA 5 ILCS 120/2.02(b) (West 2016)) provides, in relevant part: "Public notice shall be given by posting a copy of the notice at the principal office of the body holding the meeting or, if no such office exists, at the building in which the meeting is to be held. In addition, a public body that has a website that the full-time staff of the public body maintains shall post notice on its website of all meetings of the governing body of the public body."

As stated above, Mr. Allen alleged that the Board had not posted its annual schedule of meetings at the Township's office or on the Township's website, but this office determined that further action was warranted only as to the question of whether the schedule was posted at the Township office. Three days before Mr. Allen submitted this Request for Review, he submitted another Request for Review (2019 PAC 56598) alleging that the Board violated sections 2.02(a) and 2.02(b) of OMA because it failed to post the notice and agenda for a January 25, 2019, special meeting on the Township's website. On February 11, 2019, the Township's outside counsel represented to an Assistant Attorney General in the Public Access Bureau that

¹Letter from James P. Kelly, Matuszewich & Kelly, LLP, to Leah Bartelt, Assistant Attorney General, Public Access Bureau (April 8, 2019).

²Letter from James P. Kelly, Matuszewich & Kelly, LLP, to Leah Bartelt, Assistant Attorney General, Public Access Bureau (April 8, 2019).

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the Township's website is maintained by an outside contractor. Because section 2.02(b) imposes the website posting requirement only on "a public body that has a website that the full-time staff of the public body maintains," and the Township's website is not maintained by a full-time employee of the Township, the Public Access Bureau determined that Mr. Allen's Request for Review with respect to the special meeting notice and agenda was unfounded. Ill. Att'y Gen. PAC Req. Rev. Ltr. 56598, issued February 14, 2019. For the same reasons, in this Request for Review this office has determined that no further inquiry is warranted on Mr. Allen's allegation that the Board violated section 2.02(b) of OMA by not posting its annual schedule of meetings on the Township's website.

However, the Board is required to post its annual schedule of meetings at the Township's office, and the Board's outside counsel acknowledged to this office that the annual schedule of meetings was not posted as of February 21, 2019. Accordingly, the Board was not in compliance with OMA. The Board's response to the Request for Review confirmed that it remedied the violation by re-posting the annual schedule after receipt of this office's letter. Accordingly, no further remedial action is necessary.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This file is closed. If you have any questions, you may contact me at (312) 814-6437 or at the Chicago address below if you have questions.

Very truly yours,



LEAH BARTELT
Assistant Attorney General
Public Access Bureau

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