



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

December 23, 2019

Via electronic mail
Mr. John Kraft



Via electronic mail
Mr. George P. Cuonzo
Attorney for Onarga Public Library
Razzano Law Offices
115 East Walnut
Watseka, Illinois 60970
razz_law@yahoo.com

RE: OMA Request for Review – 2019 PAC 58087

Dear Mr. Kraft and Mr. Cuonzo:

This determination 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 Board of Trustees (Board) of the Onarga Community Public Library District (Library District) violated OMA by not making the agenda for its May 14, 2019, meeting continuously available for public review for the full 48-hour period before the meeting.

BACKGROUND

On May 15, 2019, Mr. John Kraft submitted a Request for Review to the Public Access Bureau alleging that the Board violated section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2018)) by not posting a notice or agenda for its May 14, 2019, meeting in a location that was continuously available to the public for the 48 hours before the meeting. Mr. Kraft noted that he had contacted the Board and its attorney regarding the posting of the agenda prior to the meeting and provided this office with a copy of his correspondence with the Board's attorney. In

Mr. John Kraft
Mr. George P. Cuonzo
December 23, 2019
Page 2

that correspondence, the attorney indicated that an agenda was posted on the Saturday afternoon before the meeting date, but did not specify the location of the posting.

On May 22, 2019, this office forwarded a copy of Mr. Kraft's Request for Review to the Board and asked it to provide copies of the May 14, 2019, meeting agenda and minutes, together with a written response to Mr. Kraft's OMA allegations. This office asked the Board to specify in its response when and where the agenda was posted. On May 23, 2019, this office received the Board's written response and its photographs of an agenda that appeared to be posted on a bulletin board. On June 3, 2019, this office forwarded a copy of the Board's response to Mr. Kraft; he replied that same day.

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 2018). "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 (5th Dist. 1989).

Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2018)) provides, in pertinent part, that "[a]n agenda for each regular meeting shall be posted at the principal office of the public body and at the location where the meeting is to be held at least 48 hours in advance of the holding of the meeting." Section 2.02(b) of OMA (5 ILCS 120/2.02(b) (West 2018)) further provides:

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.

Additionally, section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2018)) provides that:

The public body conducting a public meeting shall ensure that at least one copy of any requested notice and agenda for the meeting is **continuously available for public review during the entire 48-hour period preceding the meeting**. Posting of the notice and agenda on a website that is maintained by the public body satisfies

Mr. John Kraft
Mr. George P. Cuonzo
December 23, 2019
Page 3

the requirement for continuous posting under this subsection (c).
(Emphasis added.)

With regard to section 2.02(c), the Public Access Bureau has previously determined that if a public body does not post meeting notices on its website, it "should post meeting notices in a location where they may be continuously viewable from the outside of [the building where the meeting is being held], such as on or near the front door or facing outward from a window." Ill. Att'y Gen. PAC Req. Rev. Ltr. 29886, issued September 16, 2014, at 2-3; *see also* Ill. Att'y Gen. PAC Req. Rev. Ltr. 49761, issued November 9, 2017 (concluding that a village's meeting notice and agenda were not continuously available where, at certain times, a key was necessary to view the agenda posted inside the village hall).

In its response to this office, the Board asserted that a copy of the May 14, 2019, meeting agenda "was posted on a bulletin board inside the library at approximately 3:30 p.m. on Saturday which is more than 72 hours prior to the following Tuesday's 7 p.m. board meeting."¹ According to the Board, "the library hours are Monday, Tues & Wed 12-6; Thurs. 10 a.m.-6 p.m.; Friday 10 a.m.-5 p.m. and Sat. 10 a.m.-1 p.m."²

In reply to this office, Mr. Kraft contended that the Board's response did not dispute his claim that the meeting agenda was not posted in an area where it was continuously available to the public for 48 hours prior to the meeting. He provided this office with a photo of the front entrance door of the library and further argued that "there is plenty of window real estate available on the front entry where the[] library could post its agendas in order to comply with OMA's posting requirements."³

The 48-hour period before the May 14, 2019, meeting began at 7:00 p.m. on Sunday, May 12, 2019, and ended at 7:00 p.m. on Tuesday, May 14, 2019. The parties do not appear to dispute that on Saturday May 11, 2019, the Board posted a copy of the meeting agenda in a location inside the library which is not visible from the exterior of the building. The available information indicates, however, that the library was closed to the public for various periods during the 48 hours before the meeting, including all day Sunday until 12:00 p.m. Monday, from 6:00 p.m. Monday until 12:00 p.m. Tuesday, and the library closed at 6:00 p.m. Tuesday, an hour before the 7:00 p.m. meeting. The Board did not provide information to

¹Letter from George P. Cuonzo, Attorney for Onarga Public Library, Razzano Law Offices, to Teresa Lim, Asst. Attorney General, Public Access Bureau (May 23, 2019).

²Letter from George P. Cuonzo, Attorney for Onarga Public Library, Razzano Law Offices, to Teresa Lim, Asst. Attorney General, Public Access Bureau (May 23, 2019).

³E-mail from [John Kraft] to [Public Access Bureau] (June 3, 2019).

Mr. John Kraft
Mr. George P. Cuonzo
December 23, 2019
Page 4

indicate that the agenda could be seen from outside of the library. Thus, a member of the public seeking to view the agenda during any time that the library was closed in the 48-hour period before the meeting was not able to do so. Accordingly, this office concludes that May 14, 2019, meeting agenda was not *continuously* available for public review during the full 48-hour period directly preceding the May 14, 2019, meeting in violation of section 2.02(c) of OMA.

This office has been informed by another member of the public that the Board is now posting its meeting notice and agenda to its exterior door, a location that is visible to the public at all times.⁴ Given the passage of time and because the Board otherwise appeared to have complied with the posting requirements of section 2.02 for its May 14, 2019, meeting, no further remedial action is necessary at this time. However, this office recommends that the Board continue to ensure that the placement of its notices and agendas are clearly visible to the general public. This office also notes that the Board may post a copy of the notice and agenda on its website to satisfy the continuous viewing requirement of section 2.02(c) of OMA.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter shall serve to close this matter. If you have any questions, please contact me at the Chicago address listed on the first page of this letter.

Very truly yours,

A black rectangular redaction box covers the signature of Teresa Lim.

TERESA LIM
Assistant Attorney General
Public Access Bureau

58087 o 202c notice improper lib

⁴See Ill. Att'y Gen. PAC Req. Rev. Ltr. 59917, issued October 9, 2019.