



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 4, 2022

Via electronic mail
Mr. Jonathan King

Via electronic mail
The Honorable Gary Lance
Mayor
Village of Belmont
P.O. Box 158
Bellmont, Illinois 62811
bellmontcityhall@gmail.com

RE: OMA Request for Review – 2021 PAC S-0040/2021 PAC 68095

Dear Mr. King and Mr. Lance:

This determination letter is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2020)). For the reasons explained below, the Public Access Bureau concludes that the Village of Belmont (Village) Board of Trustees (Board) violated OMA in connection with its April 13, 2021, meeting.

On April 20, 2021, this office received Mr. Jonathan King's Request for Review alleging that the Board failed to properly post the agenda for its April 13, 2021, meeting. On May 4, 2021, this office forwarded a copy of Mr. King's Request for Review to the Board and asked it to provide this office with copies of the agenda, meeting minutes, and a verbatim recording of the meeting at issue, along with a written response to Mr. King's allegations. This office also asked the Board to describe any final actions the Board may have taken at the April 13, 2021, meeting, and whether the Village maintained a website by a full-time staff. Finally, this office asked the Board whether it had taken any mitigating measures in the event an agenda was not properly posted.

On May 12, 2021, Mr. James Neal, an attorney for the Board, provided this office with the requested materials and the Board's answer. On that same date, this office forwarded a

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copy of the Board's response to Mr. King and offered him the opportunity to reply; he replied on May 17, 2021.

DETERMINATION

Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2020)) provides, in pertinent part:

An 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. A public body that has a website that the full-time staff of the public body maintains shall also post on its website the agenda of any regular meetings of the governing body of that public body.

Section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2020)) further provides, in pertinent part:

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 the requirement for continuous posting under this subsection (c). If a notice or agenda is not continuously available for the full 48-hour period due to actions outside of the control of the public body, then that lack of availability does not invalidate any meeting or action taken at a meeting.

The Public Access Bureau has previously determined that a public body "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. 48574, issued August 22, 2017.

In its response, the Board stated that the Village does not have a website and explained that the agenda for its meeting was posted on April 8, 2021.¹ The Board provided this

¹Letter from James M. Neal to Grace Angelos, Assistant Attorney General, Office of Attorney General, Public Access Bureau (May 12, 2021) at 1.

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office an affidavit from Mayor Gary Lance, who attested that he posted the agenda at approximately 3 p.m. on that date on a bulletin board located on the front exterior of the Village Hall building.² The Board further stated that the Board was notified at the meeting that the agenda was not posted on the bulletin board at that time, and that the trustee presiding over the meeting confirmed that the agenda was missing when she inspected the bulletin board after the meeting had concluded. The Board surmised in its response that the agenda, once properly posted, was either deliberately or mistakenly removed.³ In his reply, Mr. King provided his own affidavit in which he attested that on April 10, 2021, he noticed that the agenda for the April 13, 2021, meeting was not posted on the bulletin board; he stated that instead, it was the agenda for the March 9, 2021, meeting that was posted on the bulletin board on that date.⁴

Both the Board and Mr. King provided sworn affidavits to this office concerning the bulletin board. The Mayor stated that he posted the agenda for the April meeting on April 8, 2021, but Mr. King and a second affiant stated that on April 10, 2021, it was the agenda for the March meeting that was still posted. However, both the Board and Mr. King agree that as of the date of the meeting, the agenda was not available on the bulletin board. Thus, the available information indicates that the agenda was not continuously available for the full 48-hour period prior to the April 13, 2021, meeting as is required under section 2.02(c) of OMA. Accordingly, this office concludes that the Board violated OMA.

The Board further explained to this office that once Trustee Johnson confirmed that the agenda was missing from the bulletin board, the Board scheduled and convened a special meeting on April 16, 2021, and posted the agenda for that meeting on April 14, 2021. This office's review of the meeting minutes and the verbatim recording of the two meetings indicates that at the later meeting, the Board re-voted on all the final actions taken at the April 13, 2021, meeting. Thus, the Board need not take any further action to remedy the OMA violation.

If it has not already done so, this office encourages the Board to take steps to secure the bulletin board where it posts notices and agendas so that they cannot be accidentally or deliberately removed.

²Affidavit of Gary Lance (May 11, 2021) at 1.

³Letter from James M. Neal to Grace Angelos, Assistant Attorney General, Office of Attorney General, Public Access Bureau (May 12, 2021) at 2.

⁴Affidavit of Jonathan D. King (May 17, 2021). In his affidavit, Mr. King also asserts it was stated at the meeting that the acting clerk posted the agenda rather than the Mayor. Mr. King also furnished this office an affidavit from a member of the public who similarly attested that the March 9, 2021, agenda was posted on the bulletin board on April 10, 2021.

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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, please contact me at (312) 814-4467 or at the Chicago address below if you have questions. Thank you.

Very truly yours,



GRACE ANGELOS
Assistant Attorney General
Public Access Bureau

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cc: *Via electronic mail*
Mr. James M. Neal
721 Twelfth Street
P.O. Box 446
Lawrenceville, Illinois 62439
jmnlaw@frontier.com