



DOUG STEWART

955 Lincoln Highway, Ste. 102
Fairview Heights, IL 62208
(618) 800-2972

September 13, 2024
via Electronic Mail

Laura S. Harter
500 S. 2nd Street
Springfield, IL 62701
E: Laura.Harter@ilag.gov

Re: 2024 PAC 82061 and 82077

Ms. Harter,

My office represents the Village of Caseyville (the "Village"). This correspondence is sent in response to the above referenced PAC inquires.

Factual Background:

The Village held its regular bi-monthly board and committee meetings on July 3, 2024. Per the agenda and during the open portion of the meeting, the board voted "no" on payment of the bills due to "discrepancies to be resolved" as stated by one of the Board members. See Video of Regular Board Meeting at 48:38. The Board voted to go into closed session to address the "discrepancy" so that the board can reconsider the payment of bills during the current meeting. See Video of Regular Board Meeting at 48:38.

Upon entering closed session, a board member accused the Village attorney (myself) of submitting invoices for payment that billed the Village for "campaign" work. The board member specifically asked "who are you campaigning for". See Video of Closed Meeting at 01:25-04:56. The attorney responded that he was investigating whether a resident was committing election law and campaign law violations by purchasing a social media group for \$1,000, announcing himself as a candidate for Mayor, and then using the site to post campaign related literature. Given that the village election board is a subset of the village, the attorney represents both the village and the election board.

The discussion shifted to legal authorization to pay bills otherwise previously appropriated and authorized by the Board but not approved at the time that checks are distributed to vendors. See Video of Closed Meeting at 04:56-15:25. The attorney and treasurer provided their legal opinions as to whether or the vendor invoices could be paid if the board voted not to pay the invoice after previously authorizing a contract and appropriating funds for such a purpose.

The board took no action during the closed portion of the meeting. Upon re-entering open session, the Board promptly reconsidered and approved payment of the bills.

The requesters, Mr. Vanhoose and Mr. Kraft, subsequently filed these requests for review alleging that the discussion was improperly held in closed session.

Legal Argument:

It is public policy that public bodies should conduct their affairs in public with citizens being given advanced notice of and the right to attend all meetings at which public business is discussed and acted upon in any way. See 5 ILCS 120/1. All meetings of public bodies shall be open to the public unless excepted to in subsection (c). See 5 ILCS 120/2. The exceptions detailed in the act are to be strictly construed. 5 ILCS 120/2(b). See *Illinois News Broadcasters Ass'n v. City of Springfield*, 317 N.E.2d 288. While the statute details many exemptions, the only relevant exemptions are contained in 5 ILCS 120/2(c)(1) and (11).

The Open Meetings Act provides for an exemption for discussions regarding the “appointment, [...] compensation, discipline, performance, or dismissal of [...] legal counsel for the public body, including hearing testimony on a complaint lodged [...] against legal counsel for the public body to determine its validity. In *Nuzzi v. St. George Community Consol. School Dist. No. 258*, 688 F.Supp.2d 815, the court did not find that a violation occurred when the school district went into closed session to discuss the superintendent’s performance. Similarly, in *Easley v. Board of Fire and Police Com’rs of City of Salem*, 544 N.E.2d 12, the court held that discussion regarding the discipline and, ultimately, termination of police officer was properly exempted from discussion during an open meeting and discussed in closed session.

Here, member(s) of the Board accused their appointed legal counsel of violating the law by working on election campaigns¹ and billing said work to the Village. As noted in the beginning the discussion, the board member “wanted to know why” the residents were paying for work on someone’s election campaign. The board member went further by demanding the attorney identify whose campaign he was working on. The attorney provided in-person testimony regarding his research and billing activities; presumptively, to the satisfaction of the board.

Additionally, the discussion is exempt from open meetings subject to attorney-client. Members of the board initially raised their concerns when approving payment of bills during open session. The board member making the accusation was basing it entirely on a line of the invoice from the attorney’s office. While attorney-client billing records are not necessarily subjected to the privilege, billing records which contain explanations for legal fees and indicate the type of work done or matters discussed between the attorney and the client could reveal substance of

¹ No specific accusation was made as to who’s campaign was the benefactor of the attorney’s work.

confidential communications; thus, they could be subject to valid claims of attorney-client privilege and exempt from disclosure to the public. *People ex rel. Ulrich v. Stukel* 689 N.E.2d 319.

Here, the records clearly provided descriptive language as to the investigation being conducted and the underlying laws that applied. This is evident as the board member specifically referred to the “election” and “campaign” notations contained within the invoice.

The Village argues that no violation of the open meetings act occurred pursuant to the reasons stated above. The Village provides the videos for both the open and closed portions of the meeting for review by the AG. The Village respectfully requests that the review find that no violation occurred and close this matter without further proceedings.

Please contact my office with any questions or concerns.

Sincerely,

Stewart Law Group

By: _____/s/ Doug Stewart_____

Enclosures: Agenda for July 3rd Regular Board and Committee Meetings
 Video of Open and Closed Portions of the Regular and Committee Meetings held on July 3, 2024

CC: Mr. Vanhose via bvh231@gmail.com
 Mr. Kraft via john@illinoisleaks.com
 FOIA@Caseyville.org