



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 5, 2017

Via electronic mail
Ms. Diane Benjamin
blnnews@yahoo.com

Mr. Gregory E. Moredock
Sorling Northrup Attorneys
1 North Old State Capital Plaza, Suite 200
P.O. Box 5131
Springfield, Illinois 62705

RE: OMA Request for Review – 2017 PAC 48494

Dear Ms. Benjamin and Mr. Moredock:

This determination letter is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2016.)). For the reasons that follow, the Public Access Bureau concludes that the Bloomington Public Library (Library) Board of Trustees (Board) violated the requirements of OMA because it did not post the agendas of its June 19, 2017, and June 20, 2017, meetings on its website 48 hours in advance of those meetings.

On July 28, 2017, Ms. Diane Benjamin submitted a Request for Review alleging that the Board violated OMA by failing to timely post notice on the Library's website for the meetings held on June 19, 2017, and June 20, 2017. On July 12, 2017, this office forwarded a copy of the Request for Review to the Library and asked it to respond to Ms. Benjamin's allegations. Additionally, this office asked the Library to confirm whether the Board held meetings on June 19 and June 20, 2017, and, if so, to specify if and when notice was posted on the Library's website. This office also asked the Library whether the website was maintained by a full-time staff member. On July 21, 2017, this office received the Library's response from its attorney, Mr. Benjamin E. Moredock. On July 28, 2017, this office forwarded the Library's response to Ms. Benjamin; she did not reply.

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DETERMINATION

The intent of OMA is to "ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly" and to ensure that individuals are "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 2016); *see also Gosnell v. Hogan*, 179 Ill. App. 3d 161, 171 (5th Dist. 1989) ("the intent of the Act is to assure that agency actions be taken openly and that their deliberations be conducted openly.")

To that end, section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2016)) 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. * * * Public 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, which notice shall also include the agenda for the special, rescheduled, or reconvened meeting[.]

Section 2.02(b) of OMA (5 ILCS 120/2.02(b) (West 2016)) further provides that "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." (Emphasis added.) In addition, section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2016)) requires that the public body conducting the meeting ensure that one copy of the agenda be continuously available for public review during the entire 48-hour period preceding the meeting.

As shown by the meeting notices provided by the Library, the Board held a June 19, 2017, special meeting with the Bloomington City Council's Committee of the Whole at 5:15 p.m. at the Bloomington Police Department. The Board's June 20, 2017, meeting was held at 5:30 p.m. at the Library. It is undisputed that the Library provided proper physical notice of both meetings on June 16, 2017, by posting copies of the meeting agendas on the front doors of the Library, which is the Board's principal office and at the location of the June 20, 2017, regular meeting. It is also undisputed that an agenda for the June 19, 2017, special meeting was posted

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at Bloomington City Hall and at the Bloomington Police Department, where the meeting was held.

Ms. Benjamin's sole argument is that the Library violated OMA by not posting advance notice on the Library's website for either meeting. In support of this allegation, Ms. Benjamin provided a screenshot from the Library's website from the early morning hours of June 19, 2017, which appeared to show the agenda for both meetings was not posted.

The Library's response to this office acknowledged that the agenda for each meeting was posted on the Library's website on the morning of June 19, 2017, which is less than 48 hours before the meetings commenced. The Library also acknowledged that its website is maintained by full-time staff. The Library's response to this office, however, argued that although section 2.02(a) of OMA requires the agenda to be posted at the location of the meeting and the principal office 48 hours before the meeting, no time requirement applies for posting the agenda on a website: "It is clear that the 48-hour requirement imposed on the physical posting of the Agenda is not contained in the provisions regarding posting to the website. The Open Meetings Act requires a public body to post the agenda of any regular meetings on its website, which the Library did in this case at 9:48 a.m. on June 19."¹

In construing a statute, the primary goal is to ascertain and give effect to the intent of the General Assembly. *Wisnasky-Bettorf v. Pierce*, 2012 IL 111253, ¶16, 965 N.E.2d 1103, 1106 (2012). Legislative intent is best evidenced by the language used in the statute, and if the statutory language is clear and unambiguous, it must be given effect as written. *Blum v. Koster*, 235 Ill. 2d. 21, 29 (2009). "On the other hand, when statutory language is susceptible to more than one reasonable interpretation, it is appropriate to resort to other aids of construction to determine legislative intent." *Veterans Assistance Comm'n of Grundy County v. Count Board of Grundy County*, 2016 IL App (3d) 130969, ¶45, 50 N.E.3d 121, 129 (2016). "We view the statute as a whole, construing words and phrases in light of other relevant statutory provisions and not in isolation. Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous. *People v. Gutman*, 2011 IL 110338, ¶12, 959 N.E.2d 621, 624 (2011). A reviewing body "presumes that the legislature did not intend to create absurd, inconvenient, or unjust results." *People v. Hunter*, 2013 IL 114100, ¶13, 986 N.E.2d 1185, 1189 (2013).

As noted above, section 2.02(a) of OMA expressly requires an agenda to 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." The next sentence states that "[a] public body that has a website that the full-time staff of the public body maintains shall also

¹Letter from Gregory E. Moredock, Sorling Northrup, to Valerie R. Calhoun, Assistant Attorney General, Office of the Attorney General, Public Access Bureau (July 21, 2017), at 3.

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post on its website the agenda of any regular meetings of the governing body of that public body."

It may be reasonably inferred from construing the statute as a whole that the 48-hour time requirement for posting agendas at the principal office and the location of the meeting is also intended to apply to posting agendas on the website of a public body maintained by a full time staff member. Adopting the Library's argument that a public body complies with section 2.02(a) by merely posting an agenda on the website at any time could deprive the public of any meaningful advance notice and render section 2.02(a) superfluous. For example, if section 2.02(a) permitted a public body to post an agenda on its website just minutes or seconds before a meeting commences, the website posting requirement would provide no practical advance notice at all. If the 48-hour notice requirement for posting agendas at the public body's principal office and the location of the meeting is applicable to agendas posted on websites maintained by full-time staff of a public body, on the other hand, then the General Assembly's intent that the public be provided with meaningful advance notice of all meetings of public bodies electronically will be satisfied. Accordingly, we adopt that interpretation.

The Library acknowledges that it did not post the agendas of its June 19, 2017, and June 20, 2017, meetings on its website at least 48 hours in advance of the meetings in question. Therefore, this office concludes that the Library violated section 2.02(a) of OMA. The available information indicates, however, that this violation resulted from an inadvertent scheduling error and that the Library is taking measures to prevent similar errors in the future.² Further, the available information indicates that both agendas were posted and available for public inspection more than 48 hours before the meetings at the locations of the meetings and at the Library's principal office. Accordingly, we conclude that no additional remedial action is required in this instance.

²The Library's response to this office indicated that because of early departures, all three of the library employees who have the ability to post agendas to the Library's website were unavailable when the agendas were made available for posting on Friday, June 16, 2017. This issue was discovered and remedied first thing Monday morning once the staff members returned to work after the weekend. As e-mails from the Library staff show, the June 19 meeting was posted at 9:48 a.m. on June 19, and the June 20 agenda was posted at 10:03 a.m. on June 19. The Library further explained that it is taking affirmative steps to improve its electronic agenda posting process.

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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 letter closes this matter. If you have questions, you may contact me at (312) 814-3697. Thank you.

Very truly yours,



VALERIE R. CALHOUN
Assistant Attorney General
Public Access Bureau

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Cc: *Via electronic mail*
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