



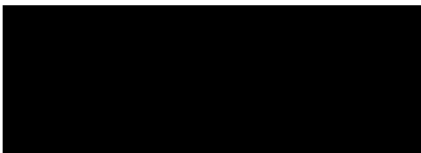
OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 26, 2017

Via electronic mail
Mr. Ryan Vincent Voyles
Staff Writer
Herald & Review
601 East William Street
Decatur, Illinois 62523
rvoyles@herald-review.com

Via electronic mail



Via electronic mail
Mr. Jeffrey R. Jurgens
Sorling Northrup
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P.O. Box 5131
Springfield, Illinois 62705
jrjurgens@sorlinglaw.com

RE: OMA Requests for Review – 2017 PAC 47489; 2017 PAC 47491

Dear Mr. Voyles, [REDACTED], and Mr. Jurgens:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (5 ILCS 120/3.5(e) (West 2015 Supp.)). For the reasons below, the Public Access Bureau concludes that the Decatur Township (Township) Cemetery Board (Board) violated OMA by failing to provide advance notice for its April 18, 2017, meeting.

On April 19, 2017, the Public Access Bureau received a Request for Review from Ryan Voyles, on behalf of the *Herald & Review*, alleging the Board met on April 18, 2017,

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[REDACTED]

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without making the agenda for the meeting available for public review for the entire 48-hour period before the meeting. Specifically, Mr. Voyles alleged that the agenda was posted on bulletin boards inside the Township building on the afternoon of Sunday, April 16, 2017, but the inside of the Township building was not accessible until the morning of April 17, 2017. Mr. Voyles also alleged that the meeting agenda was not posted on the Township's website or social media accounts before the meeting. Mr. Voyles enclosed photographs of the agenda through glass doors of the Township building with his Request for Review. On April 19, 2017, the Public Access Bureau received a second Request for Review concerning the Board's April 18, 2017, meeting from [REDACTED]. [REDACTED] alleged that the agenda for the meeting was not continuously available for the full 48 hours before the meeting because the Township building was locked until Monday morning. [REDACTED] also alleged that the Board should have posted notice of the meeting in the newspaper or on the Township's Facebook page.

On April 24, 2017, this office forwarded a copy of the Requests for Review to the Board and asked it to respond to Mr. Voyles and [REDACTED]'s allegation that the agenda for the April 18, 2017, meeting was not continuously available for public review for the 48 hours before the meeting. We also asked the Board to clarify whether it has a website that its full-time staff maintains. On May 8, 2017, counsel for the Board provided a written response. On May 11, 2017, this office sent a copy of the Board's response to Mr. Voyles and [REDACTED]; they did not reply.

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 2014); *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 2014)) 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[.]" and that "[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(b) of OMA (5 ILCS 140/2.02(b) (West 2014)) adds 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." Section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2014)) further requires

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that "at least one copy any requested notice and agenda for the meeting is continuously available for public review during the entire 48-hour period preceding the meeting."

The Board's response stated that a copy of the agenda for the April 18, 2017, meeting was posted at the Township building in a glass case "behind glass doors that are locked after hours."¹ The Board stated that although the agenda was visible through the locked glass doors, it "was difficult to read[.]"² The Board stated that it has since changed how it posts agendas at the Township building so that now the agendas are posted directly on the glass doors. The Board also stated that it held another meeting on April 25, 2017, where the Board discussed and took action on items that were on the agenda for the April 18, 2017, meeting.

Based on the photographs of the agenda enclosed with Mr. Voyles' Request for Review and the Board's admission that the agenda for the meeting was difficult to read through the doors of the Township building, this office concludes that the Board violated section 2.02(c) of OMA by holding a meeting on April 18, 2017, without making the agenda for the meeting continuously available for public review for the entire 48-hour period before the meeting. Because the Board has confirmed that it held another meeting on April 25, 2017, where the items on the agenda for the April 18, 2017, meeting were reconsidered and for which an agenda was properly posted and available for continuous review by the public at least 48 hours before the meeting commenced, this office concludes that no further action by the Board is necessary to remedy its violation of section 2.02(c) of OMA.

With respect to [REDACTED]'s allegation that the Board should have published notice of the April 18, 2017, meeting in the newspaper, OMA only requires that a change in the schedule of regular meetings be published in the newspaper. *See*, 5 ILCS120/2.03 (West 2014). OMA does not require the Board to publish notice of its regular meeting in a newspaper. [REDACTED] also appears to allege that posting the agenda at the Township building was not convenient. As noted above, section 2.02(a) of OMA requires that a copy of the agenda be posted at the principal office of the public body and at the location of the meeting. The Board stated that its principal office and the location of the meeting is the Township building. Thus, the Board was not required to post the agenda for the meeting at any other location.

Mr. Voyles and [REDACTED] also alleged that the Board was required to post notice of its April 18, 2017, meeting on the Township's website or the Board's social media accounts.

¹Letter from Jeffrey R. Jurgens, Sorling Northrup, to Matt Hartman, Assistant Attorney General, Public Access Bureau (May 8, 2017).

²Letter from Jeffrey R. Jurgens, Sorling Northrup, to Matt Hartman, Assistant Attorney General, Public Access Bureau (May 8, 2017).

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The Board responded by stating that it does not maintain a separate website from the Township's website and that the Board is not the governing body of the Township. Because sections 2.02(a) and 2.02(b) of OMA require a public body that has a website maintained by its own staff to post notice and an agenda of all regular meetings of the governing body of the public body and because the Board does not have a website, this office concludes that the Board did not violate OMA by failing to post a copy of the notice and agenda for the April 18, 2017, meeting on the Township's website. In addition, OMA does not require a public body to post notice of its meetings to its social media accounts because those accounts are not websites under the control of and maintained by the public body. *See, Ill. Att'y Gen. PAC Req. Rev. Ltr. 21667, issued October 31, 2012.*

The Public Access Counselor has determined that resolution of these matters does not require the issuance of a binding opinion. If you have any questions, please contact me at (217) 782-9054 or the Springfield address on the first page. This letter serves to close these files.

Very truly yours,
[REDACTED]

MATT HARTMAN
Assistant Attorney General
Public Access Bureau

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