



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

December 19, 2019

Via electronic mail

RE: OMA Request for Review – 2019 PAC 61021

Dear [REDACTED]

This determination is issued pursuant to section 3.5(a) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(a) (West 2018)).

On December 14, 2019, this office received your Request for Review alleging that the open session minutes and closed session minutes of the DuPage County Board's April 23, 2019, meeting are inconsistent. You state that the Board's open session minutes indicate, and a video recording of the open session portion of the meeting confirm, that at 11:32 a.m., Board member Elliott made a motion to enter closed session pursuant to sections 2(c)(2), 2(c)(11), and 2(c)(21) of OMA,¹ which was seconded by Board member Larsen and approved by a voice vote. You complain that the Board's closed session minutes indicate that at 11:35 a.m., Board member Zay made a motion to enter closed session pursuant to section 2(c)(11), which was seconded by Board member Chaplin. You also allege that the open session minutes indicate that Board member Zay made a motion to adjourn closed session, which was seconded by Board member Chaplin, while the closed session minutes indicate that the motion to adjourn was made by Board member Elliot and seconded by Board member Renchan.

Section 2.06(a) of OMA (5 ILCS 120/2.06(a) (West 2018)) provides: "All public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording." The Board's open session minutes are the official record of what transpired in open session. Although information in closed session minutes about the open session portion of a meeting ideally will be consistent with open session minutes, there is no basis for this office to conclude that the Board violated OMA because its closed session minutes do not accurately document the open session portion of

¹5 ILCS 120/2(c)(2), (c)(11), (c)(21) (West 2018).

December 19, 2019

Page 2

the meeting. Further, de minimis inconsistencies in minutes concerning the precise time a public body entered closed session and who made motions to enter or adjourn closed session do not deprive the public of any meaningful information concerning the resulting vote or the substance of closed session discussions.

Your Request for Review also alleged that the closed session minutes may be inadequate because they do not reflect a discussion of collective bargaining even though the Board cited the section 2(c)(2) exception for "[c]ollective negotiating matters between the public body and its employees or their representatives[]" as one of its three bases for entering closed session. Section 2a of OMA (5 ILCS 120/2a (West 2018)) provides: "The vote of each member on the question of holding a meeting closed to the public and a citation to the specific exception contained in Section 2 of this Act which authorizes the closing of the meeting to the public shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting." No provision of OMA, however, requires a public body to proceed to discuss in closed session all topics that the public body anticipated discussing at the time it voted to enter closed session. Your allegation that the Board's minutes failed to provide an adequate summary of closed session deliberations² is speculative and does not provide facts supporting that allegation as required by section 3.5(a) of OMA. Accordingly, this office has determined that no further action is warranted in this matter.

This file is closed. If you have questions, you may contact me at (312) 814-6756.

Very truly yours,

STEVE SILVERMAN
Bureau Chief
Public Access Bureau

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cc: The Honorable Dan Cronin
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²Section 2.06(a)(3) of OMA (5 ILCS 120/2.06(a)(3) (West 2018)) requires that meeting minutes include "a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken."