



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

September 5, 2013

PUBLIC ACCESS OPINION 13-014
(Request for Review 2013 PAC 24845)

OPEN MEETINGS ACT:

A Public Body's Special Meeting Held
Approximately 26 Miles from its Ordinary
Meeting Location is Not "Convenient and
Open" to the Public.

Mr. Randy Vollmer
P.O. Box 182
Longview, Illinois 61852

Mr. Andrew J. Hatch
Hatch Law Firm
115 North Neil Street, Suite 315
Champaign, Illinois 61820

Dear Mr. Vollmer and Mr. Hatch:

This is a binding opinion issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2012)). For the reasons discussed below, this office concludes that on April 16, 2013, the Board of Trustees (Board) of the Broadlands-Longview Fire Protection District (District) violated OMA by holding a special meeting at a location that was not "convenient and open" to the public under section 2.01 of OMA (5 ILCS 120/2.01 (West 2012)).

BACKGROUND

On June 7, 2013, Mr. Randy Vollmer submitted a Request for Review to the Public Access Counselor alleging that the District had violated OMA. Specifically, Mr. Vollmer's Request for Review alleges:

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On April 16, 2013 the Board of Trustees of the Broadlands-Longview Fire Protection District held a meeting at 115 N. Neil Street, Champaign, Illinois. The OMA states a meeting must be held in a convenient location. This meeting was held more than 20 miles from any part of the district. I believe this to be a violation of the "convenient location" requirement.¹

On June 19, 2013, the Public Access Bureau forwarded a copy of Mr. Vollmer's Request for Review to the District and asked for a response to his allegation.² On June 28, 2013, Mr. Andrew J. Hatch, attorney for the District, submitted a response to this office acknowledging that the Board held a special meeting at his Champaign law office at 9:00 a.m. on April 16, 2013, followed by a regular meeting held at the Broadlands Firehouse at 7:00 p.m. that evening. Mr. Hatch stated that:

because the Trustees were seeking legal advice prior to their Regular Meeting and their presence together at my law office technically constitutes a meeting under the Open Meetings Act due to the quorum present, the Trustees properly noticed the Special Meeting and Agenda that took place at my office.³

Mr. Hatch also provided to this office copies of the notice, agendas, and minutes of both April 16, 2013, meetings. Mr. Hatch stated that his office in Champaign is approximately 26 miles from the Board's regular meeting location at the firehouse in Broadlands, but noted that by traveling to Champaign, the Board spared the District from incurring costs for his travel time. Mr. Hatch further noted that the special meeting was informational only, no decisions were made, and the special meeting was correctly noticed under OMA.⁴ This office forwarded a copy of the District's response to Mr. Vollmer on July 10, 2013; he has not replied.⁵

¹E-mail from Randy Vollmer to paccess@atg.state.il.us (June 7, 2013).

²Letter from Matt Rogina, Assistant Attorney General, Public Access Bureau, to Shawn Walker, Chief, Broadlands-Longview Fire Protection District (June 19, 2013).

³Letter from Andrew J. Hatch, Hatch Law Firm, to Matt Rogina, Assistant Attorney General, Public Access Bureau (June 28, 2013).

⁴Letter from Andrew J. Hatch, Hatch Law Firm, to Matt Rogina, Assistant Attorney General, Public Access Bureau (June 28, 2013).

⁵Letter from Matthew C. Rogina, Assistant Attorney General, Public Access Bureau, to Randy Vollmer (July 10, 2013).

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On August 6, 2013, this office properly extended the time within which to issue a binding opinion to September 5, 2013, pursuant to section 3.5(e) of OMA.⁶

ANALYSIS

OMA requires that "[a]ll meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." 5 ILCS 120/2(a) (West 2012). Section 2.01 of OMA provides that "[a]ll meetings required by [OMA] to be public shall be held at specified times and *places which are convenient and open to the public.*" (Emphasis added.)

The parties agree that notice of the April 16, 2013, special meeting was provided to the public, and that the meeting was held at a location some distance outside the corporate boundaries of the fire protection district. Mr. Vollmer characterized the location of the special meeting as "20 miles from any part of the district,"⁷ while the District's response states that Attorney Hatch's office in Champaign is about 26 miles from the firehouse in Broadlands, which is where the Board ordinarily meets. Mr. Vollmer did not raise the issue of whether holding the meeting at an attorney's office, rather than at a public building, satisfied the statutory requirement that the location be "open" to the public. However, because Mr. Vollmer's Request for Review can be resolved on the basis of whether the location of the meeting was "convenient," for purposes of OMA, it is not necessary to address that issue.

In *Gerwin v. Livingston County Bd.*, 345 Ill. App. 3d 352 (4th Dist. 2003), the Illinois Appellate Court addressed the "convenient and open" requirement of OMA. In *Gerwin*, citizens filed a complaint alleging that they were improperly precluded from attending a county board meeting because the size of the meeting room was inadequate to accommodate the number of attendees. *Gerwin*, 345 Ill. App. 3d at 354. The plaintiffs alleged that the county board realized prior to the meeting that the designated meeting room would not accommodate all interested members of the public, but declined to move the meeting to a larger venue. *Gerwin*, 345 Ill. App. 3d at 355.

Although the issue in *Gerwin* was the size of the meeting room rather than the geographic location of the meeting, the court's discussion of the "convenient and open" requirement is equally instructive here. The court noted that the terms "open" and "convenient" are not synonymous; thus, "an open meeting in an inconvenient place violates the Act." *Gerwin*,

⁶Letter from Matthew Rogina, Assistant Attorney General, Public Access Bureau, to Randy Vollmer and Andrew J. Hatch (August 6, 2013).

⁷E-mail from Randy Vollmer to paccess@atg.state.il.us (June 7, 2013).

345 Ill. App. 3d at 359. In discussing the meaning of "convenient," in this context, the court stated:

A meeting can be open in the sense that no one is prohibited from attending it, but it can be held in such an ill-suited, unaccommodating, unadvantageous place that members of the public, as a practical matter, would be deterred from attending it. *Gerwin*, 345 Ill. App. 3d at 361.

The District's headquarters are in the Village of Broadlands, which is located in southeastern Champaign County. The Board holds its regular meetings at the fire station in Broadlands at 7:00 p.m. in the evening. The April 16, 2013, special meeting, however, was held in Champaign, approximately twenty-six miles from Broadlands, at 9:00 a.m. Accordingly, attending the special meeting would have required traveling to Champaign. Further, the additional travel time necessary to attend a meeting scheduled for 9:00 a.m. on a weekday is likely to have discouraged attendance by persons who might otherwise have attended a meeting held within the District, and there has been no suggestion that the fire station or another suitable facility within the District was not available for the meeting. In these circumstances, by holding a Board meeting approximately 26 miles from the public body's headquarters, "the public, as a practical matter, [was] deterred from attending it." *Gerwin*, 345 Ill. App. 3d at 361. Accordingly, we conclude that the Board violated section 2.01 of OMA by holding its April 16, 2013, special meeting at a location that was not "convenient and open" to the public.

We recognize, as pointed out by Mr. Hatch, that by travelling to Champaign for the meeting, the Board may have reduced the cost of legal fees to the District. We also recognize, as Mr. Hatch noted, that no action was taken at the special meeting. The minutes indicate, however, that the Board discussed tax levies, referenda, and a possible bond issue to fund two new fire stations, as well as the need to garner community support for those expenditures.⁸ The possibility of incurring debt and the impact of that debt on taxes are matters of substantial interest to residents of the District and should take place at a location that encourages public attendance. In this instance, more publicly accessible alternatives to holding the meeting in Champaign were available. For example, Board members could have gathered at the Board's usual meeting place or another convenient location within the District and communicated with the Board's attorney via speakerphone.

Although no effective remedial action to cure this violation can be undertaken at this time, this office directs the District to ensure that all future Board meetings are held at places

⁸Board of Trustees of the Broadlands-Longview Fire Protection District, "Trustees Meeting with Andrew Hatch," April 16, 2013, Minutes at 1.

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that are "convenient and open" to the public, in accordance with the requirements of OMA. *See generally* 1976 Ill. Att'y Gen. Op. 273, 274 (a hearing on a proposed special service area need not be held in the area proposed for inclusion in the special service area, but it must be held at a place reasonably convenient for the taxpayers who would be affected by its creation).

FINDINGS AND CONCLUSIONS

After full examination and giving due consideration to the arguments presented, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

1) On June 7, 2013, Mr. Randy Vollmer submitted a Request for Review to the Public Access Counselor alleging that the Board of Trustees of the Broadlands-Longview Fire Protection District violated the Open Meetings Act by holding a special meeting on April 16, 2013, at a place that was not convenient to the public. Section 2.01 of OMA provides that "[a]ll meetings required by [OMA] to be public ***shall be held at*** specified times and ***places which are convenient and open to the public.***" (Emphasis added.) Mr. Vollmer's Request for Review was timely filed and otherwise complies with section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2012)).

2) On June 19, 2013, this office forwarded a copy of Mr. Vollmer's Request for Review to the District and asked for its response to his allegation.

3) On June 28, 2013, the attorney for the Board submitted a written response to the Public Access Counselor in which he stated that the Board held a special meeting at 9:00 a.m. on April 16, 2013, at his office in Champaign, which is located approximately 26 miles from the District's regular meeting place at the fire station in Broadlands.

4) On August 6, 2013, the Public Access Counselor extended the time to issue a binding opinion to September 5, 2013. Therefore, the Attorney General may properly issue a binding opinion with respect to this matter. 5 ILCS 120/3.5(e) (West 2012).

5) For the reasons more fully set out above, the Attorney General concludes that the Board violated section 2.01 of OMA because it held its April 16, 2013, special meeting at a place that was not "convenient" to the public. Holding the Board's special meeting approximately 26 miles from the District's regular meeting place, during the morning hours of a weekday, may reasonably be presumed to have deterred members of the public from attending the meeting. Based upon the minutes of the special meeting, it does not appear that any members of the public attended the meeting.

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In accordance with these findings of fact and conclusions of law, the Board is directed to conduct its future meetings in full compliance with OMA. In particular, when holding its meetings, the Board is directed to do so at places that are "convenient and open" to the public, as specifically required by section 2.01 of OMA.

This opinion shall be considered a final decision of an administrative agency for the purposes of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2012). An aggrieved party may obtain judicial review of this decision by filing a complaint for administrative review in the Circuit Court of Cook or Sangamon County within 35 days of the date of this decision naming the Attorney General of Illinois and Mr. Randy Vollmer as defendants. *See* 5 ILCS 120/7.5 (West 2012).

Sincerely,

LISA MADIGAN
ATTORNEY GENERAL

By:



Michael J. Luke
Counsel to the Attorney General