



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 2, 2022

PUBLIC ACCESS OPINION 22-007
(Request for Review 2022 PAC 70322)

OPEN MEETINGS ACT:
Improper Remote Meetings
During a Public Health Emergency

Ms. Star Lawson
517 Landau Road
University Park, Illinois 60484

The Honorable Joseph E. Roudez III
Mayor
Village of University Park
Village Hall
44 Town Center Drive
University Park, Illinois 60484

The Honorable Dorothy R. Jones
Clerk
Village of University Park
Village Hall
44 Town Center Drive
University Park, Illinois 60484

Dear Ms. Lawson, Mayor Roudez, and Clerk Jones:

This binding opinion is issued by the Attorney General pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2020)). For the reasons discussed below, this office concludes that the Village of University Park (Village) Board of Trustees (Board) held improper remote meetings on January 25, 2022, and February 22, 2022.

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BACKGROUND

On March 7, 2022, Ms. Star Lawson submitted a Request for Review alleging that "the Mayor of University Park, Joseph E. Roudez, III, * * * has been holding Board of Trustee meetings, but not allowing the residents to attend in person meetings. These board meetings provide no link on the website for residents to have access to these meetings[.]"¹ On March 8, 2022, Ms. Lawson called Public Access Counselor Leah Bartelt, clarifying that her allegations pertained, in relevant part, to the Board's January 2022 and February 2022 regular meetings and the Board's failure to provide remote access information for those meetings.² That same day, Public Access Counselor Bartelt accessed the section of the Village's website³ where notices and agendas were posted for the Board's regular meetings on January 25, 2022,⁴ and February 22, 2022.⁵

On March 17, 2022, the Public Access Bureau sent a copy of the Request for Review to Mayor Joseph E. Roudez III. The Public Access Bureau also sent Mayor Roudez a letter asking for copies of any notices, agendas, minutes, and recordings from the Board's January 25, 2022, and February 22, 2022, regular meetings, and a written response to the allegation that "the Board has routinely failed to provide the public with a link, or other means of access, to various recent Board meetings."⁶ Having received no response, on April 7, 2022, the Public Access Bureau sent a second copy of the Request for Review to Mayor Roudez, again requesting that the Board "provide a written response to Ms. Star Lawson's Request for Review and copies of the records this office has requested."⁷

¹E-mail from Star Lawson to Public Access [Bureau, Office of the Attorney General] (March 7, 2022).

²Telephone conversation between Star Lawson and Leah Bartelt, Public Access Counselor, Office of the Attorney General (March 8, 2022).

³Village of University Park, Agendas and Minutes, <https://www.university-park-il.com/agendalist/index.php> (last visited May 20, 2022).

⁴Village of University Park, Board of Trustees, Agenda, Regular Meeting (January 25, 2022).

⁵Village of University Park, Board of Trustees, Agenda, Regular Meeting (February 22, 2022).

⁶Letter from Christopher R. Boggs, Supervising Attorney, Public Access Bureau, Office of the Attorney General, to The Honorable Joseph E. Roudez III, Mayor, Village of University Park (March 17, 2022).

⁷Letter from Christopher R. Boggs, Supervising Attorney, Public Access Bureau, Office of the Attorney General, to The Honorable Joseph E. Roudez III, Mayor, Village of University Park (April 7, 2022).

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On April 11, 2022, Mayor Roudez and Village Clerk Dorothy R. Jones called Supervising Attorney Christopher R. Boggs to acknowledge receipt of this office's April 7, 2022, further inquiry letter. Mayor Roudez confirmed that the Board would provide the requested materials and a written response to this office by close of business the following day.⁸ On April 25, 2022, having still received no response from the Board, the Public Access Bureau e-mailed Mayor Roudez, copying Clerk Jones, inquiring: "Following our April 11, 2022, telephone conversation, you and Clerk Jones ensured that the Village would provide its written response to the Public Access Bureau as soon as possible. As of this writing, I have yet to receive any written response from the Village for this matter. Please advise."⁹ That e-mail also contained copies of the Request for Review and the two further inquiry letters seeking a response from the Board.

On May 3, 2022, the Public Access Bureau extended the time within which to issue a binding opinion by 21 business days, to June 7, 2022, pursuant to section 3.5(e) of OMA.¹⁰

On May 18, 2022, Clerk Jones submitted to this office, in relevant part, copies of the meeting notices/agendas in question, links to view verbatim recordings of the two meetings, and a written answer on behalf of the Board. The Board's written answer asserted:

The allegations are false and without merit. Attached to this email is the agenda for the meetings of January 25, 2022, and February 22, 2022, along with an explanation from the Communications Specialist Neva Jenkins on how notice is given to residents on how to view the meetings on our website and on our You Tube Station.^[11]

⁸Telephone conversation between Joseph E. Roudez III, Mayor, Village of University Park, Dorothy R. Jones, Village Clerk, University of Village Park, and Christopher R. Boggs, Supervising Attorney, Public Access Bureau, Office of the Attorney General (April 11, 2022).

⁹E-mail from Christopher R. Boggs, AAG, Supervising Attorney, Public Access Bureau, Office of the Attorney General, to Mayor [Joseph E.] Roudez [III] (April 25, 2022).

¹⁰Letter from Christopher R. Boggs, Supervising Attorney, Public Access Bureau, Office of the Attorney General, to Star Lawson, The Honorable Joseph E. Roudez III, Mayor, Village of University Park, and The Honorable Dorothy R. Jones, Clerk, Village of University Park (May 3, 2022).

¹¹E-mail from Dorothy "Dee" Jones, MMC, RMC, Village Clerk/Chief FOIA Officer, Village of University Park, to [Christopher] Boggs (May 18, 2022).

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Ms. Jenkins' explanation, provided in an e-mail to Clerk Jones, described her process for posting notice of Board meetings:

When the Board Meeting Agenda is emailed to me, I create a zoom link and share it to the Mayor[,], Board of Trustees, Clerk, and meeting guests. The agenda is posted to our website. The website link to view the post is then shared on our social media Facebook page with the YouTube link <https://www.youtube.com/channel/UCHuI9H2FXssoBuZrGyt2Rfw> This link is to our YouTube channel. All of the links are listed here. During the board meeting when we are on live the square flashes LIVE. That is where the meeting can be viewed. * * *. After the meeting is over, the meeting can be viewed immediately afterwards. The meeting is then listed on our YouTube library.^[12]

On May 19, 2022, this office forwarded a copy of the Board's answer to Ms. Lawson.¹³ She did not reply.

ANALYSIS

OMA declares that it is "the public policy of this State that its citizens shall be 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 2020).

Section 7(e) of OMA (5 ILCS 120/7(e) (West 2020)) sets forth the requirements for a public body to conduct a remote meeting without a quorum physically present during a public health emergency, such as the COVID-19 pandemic. At the time of the Board's January 25, 2022, and February 22, 2022, regular meetings, statewide disaster declarations¹⁴ were in place that the Governor had issued pursuant to his authority under the Illinois Emergency Management Agency Act (20 ILCS 3305/7 (West 2020)). Those disaster declarations satisfied

¹²E-mail from Nai Neva Jenkins, Village of University Park, Village Communications & Community Engagement Specialist, to Clerk [Dorothy] Jones (May 17, 2022).

¹³Letter from Christopher R. Boggs, Supervising Attorney, Public Access Bureau, Office of the Attorney General, to Star Lawson (May 19, 2022).

¹⁴Gubernatorial Disaster Proclamation, issued January 7, 2022, at [7]; Gubernatorial Disaster Proclamation, issued February 4, 2022, at [7].

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section 7(e)(1) of OMA (5 ILCS 7(e)(1) (West 2020)).¹⁵ The following two additional subsections are particularly relevant here:

- (e) Subject to the requirements of Section 2.06 but notwithstanding any other provision of law, an open or closed meeting subject to this Act may be conducted by audio or video conference, without the physical presence of a quorum of the members, so long as the following conditions are met:

* * *

- (4) for open meetings, members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the disaster, * * * in which case the public body must make alternative arrangements and provide notice pursuant to this Section of such alternative arrangements in a manner to allow any interested member of the public access to contemporaneously hear all discussion, testimony, and roll call votes, such as by offering a telephone number or a web-based link;

* * *

- (7) Except in the event of a bona fide emergency, 48 hours' notice shall be given of a meeting to be held pursuant to this Section. Notice * * * shall be posted on the website of the public body[.]

Construing the plain language of sections 7(e)(4) and 7(e)(7) together, when a public body holds a remote meeting that is not accessible to the public at the regular meeting location, the public

¹⁵Section 7(e)(1) of OMA provides:

(1) the Governor or the Director of the Illinois Department of Public Health has issued a disaster declaration related to public health concerns because of a disaster as defined in Section 4 of the Illinois Emergency Management Agency Act, and all or part of the jurisdiction of the public body is covered by the disaster area[.]

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body must post the remote meeting access information on its website with the meeting notice/agenda at least 48 hours in advance of the meeting, except in the event of a bona fide emergency. This contrasts with other provisions concerning website postings in OMA, which require website posting only if "the full-time staff of the public body maintains" the public body's website.¹⁶ See *Julie Q. v. Dep't of Children & Family Services*, 2013 IL 113783, ¶41, 995 N.E.2d 977, 985 (2013). ("The legislature's decision to use certain language in one instance and different language in another indicates that the legislature intended different results.").

This office has reviewed copies of the January 25, 2022, and February 22, 2022, meeting agendas provided in the Board's response. Each of the agendas begin with the same statement indicating, in relevant part:

Pursuant to Governor Pritzker's Executive Order 2020-07 (COVID-19 Executive Order No. 5) As Amended, which suspends the requirement of the Illinois Open Meetings Act requiring in-person attendance by members of a public body during the duration of the Gubernatorial Disaster Proclamation, the members of the Village Board will not be physically present for the designated board meeting but will instead be participating in the meeting through audio access using a virtual meeting platform.¹⁷

The January 25, 2022, and February 22, 2022, agendas plainly stated that the meetings would be held through a virtual platform. However, they provided no notice of how members of the public could access the meetings in real time, nor do they indicate that members of the public would be allowed to attend the meetings in-person. Posting notice of remote meetings that were not accessible to the public at the regular meeting location without indicating how to access the meetings failed to satisfy the Board's statutory obligation to "make alternative arrangements and **provide notice pursuant to this Section** of such alternative arrangements in a manner to allow any interested member of the public access to contemporaneously hear all discussion, testimony, and roll call votes, such as by offering a telephone number or a web-based link." (Emphasis added.) 5 ILCS 120/7(e)(4) (West 2020). Posting this information on a public body's social media accounts does not satisfy the requirement in section 7(e)(7) of OMA to post notice "on the website of the public body[.]"

¹⁶5 ILCS 120/2.02(a), (b) (West 2020); 5 ILCS 120/2.06(b) (West 2020) as amended by Public Act 102-653, effective January 1, 2022.

¹⁷Village of University Park, Board of Trustees, Agenda, Regular Meeting (January 25, 2022); Village of University Park, Board of Trustees, Agenda, Regular Meeting (January 25, 2022).

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Accordingly, because the Board provided insufficient advance notice and afforded inadequate access to its January 25, 2022, and February 22, 2022, regular meetings, the Board violated OMA on those dates.

FINDINGS AND CONCLUSIONS

After full examination based on the evidence available, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

1) On January 25, 2022, and February 22, 2022, the Village of University Park Board of Trustees held remote regular meetings. The agendas posted on the Village's website stated that the Board would be "participating in the meeting through audio access using a virtual meeting platform." The agendas did not indicate that members of the public could attend the meeting at the regular meeting location, or provide notice of alternative arrangements for the public to attend the meetings remotely.

2) On March 7, 2022, Ms. Star Lawson submitted a Request for Review to the Public Access Bureau alleging that the Board violated OMA by holding the meetings remotely without providing the public with information for accessing the meetings before they began. Ms. Lawson's Request for Review was timely filed and otherwise complies with the requirements of section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2020)).

3) On March 17, 2022, the Public Access Bureau sent a copy of the Request for Review to Mayor Joseph E. Roudez III and asked the Board to provide copies of any notices, agendas, minutes, and recordings from its January 25, 2022, and February 22, 2022, meetings. This office also requested a written response to the allegation that the Board did not provide the public with advance notice of a web-based link to the meeting or other means of accessing the meeting. On April 7, 2022, having received no response from the Board, the Public Access Bureau sent a second copy of the Request for Review to Mayor Roudez, and again requested meeting materials and a written response to Ms. Lawson's allegations.

4) On May 3, 2022, the Public Access Bureau extended the time within which to issue a binding opinion by 21 business days, to June 7, 2022, pursuant to section 3.5(e) of OMA. Accordingly, the Attorney General may properly issue a binding opinion with respect to this matter.

5) On May 18, 2022, Village Clerk Dorothy R. Jones provided copies of the notices/agendas for the meetings in question, links to view verbatim recordings of the two meetings, and a written answer on behalf of the Board. The Board's written answer asserted that

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it shared on its Facebook page (1) the website link to view the meeting notice/agenda and (2) the YouTube link to view the meeting. The Board has not contested the allegation that it failed to include in its notices/agendas a web-based link or other means to contemporaneously access the remote meetings.

6) On May 19, 2022, this office forwarded a copy of the Board's answer to Ms. Lawson. She did not reply.

7) Section 7(e) of OMA provides the legal framework for public bodies to hold meetings remotely during the COVID-19 pandemic when a Gubernatorial disaster declaration is in effect.

8) Section 7(e)(4) requires that when "attendance at the regular meeting location is not feasible due to the disaster, including the issued disaster declaration, * * * the public body must make alternative arrangements * * * to allow any interested member of the public access to contemporaneously hear all discussion, testimony, and roll call votes, such as by offering a telephone number or a web-based link[.]" Section 7(e)(7) adds that "[e]xcept in the event of a bona fide emergency, 48 hours' notice shall be given of a meeting to be held pursuant to this Section. Notice * * * shall be posted on the website of the public body[.]" When read in tandem, these provisions combine to expressly require that public bodies post on their website notice of the access information for a remote meeting under section 7(e) of OMA.

9) The Board held its January 25, 2022, and February 22, 2022, regular meetings via a virtual platform, but the agendas posted on the Village's website did not provide advance notice of a telephone number, web-based link, or any other means for the public to access the meetings before they began.

10) Therefore, the Board improperly held its January 25, 2022, and February 22, 2022, meetings remotely without satisfying the remote meeting requirements of section 7(e) of OMA.

In accordance with these findings of fact and conclusions of law, the Public Access Bureau concludes that the Village of University Park Board of Trustees violated OMA by failing to provide the public with adequate public access to its January 25, 2022, and February 22, 2022, regular meetings. The Board is directed to include the remote access information, such as a telephone number or a web-based link, in the meeting notice/agenda for any future remote meeting.

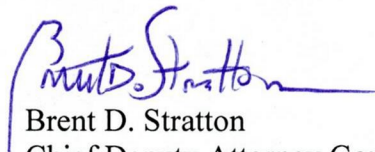
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This opinion shall be considered a final decision of an administrative agency for the purpose of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2020). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review in the Circuit Court of Cook County or Sangamon County within 35 days of the date of this decision, naming the Attorney General of Illinois and Ms. Star Lawson as defendants. *See* 5 ILCS 120/7.5 (West 2020).

Very truly yours,

KWAME RAOUL
ATTORNEY GENERAL

By:



Brent D. Stratton
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

Steve Silverman, Bureau Chief, Public Access Bureau, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 22-007) upon:

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gydnSTAR4u@gmail.com

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by causing a true copy thereof to be sent electronically to the addresses as listed above and by causing to be mailed a true copy thereof in correctly addressed, prepaid envelopes to be deposited in the United States mail at Chicago, Illinois on June 2, 2022.


STEVE SILVERMAN
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