



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

August 23, 2023

*Via electronic mail*

The Honorable Kevin Green  
Vermillion County Board Representative  
District 2  
17938 North 680 East Road  
Fithian, Illinois 61844  
kggdiver@gmail.com

*Via electronic mail*

The Honorable Larry Baughn  
County Board Chairman  
Vermilion County Board  
201 North Vermilion Street  
2nd Floor  
Danville, Illinois 61832  
lbaughn@vercounty.org

RE: OMA Request for Review – 2023 PAC 75604

Dear Mr. Green and Mr. Baughn:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2022)). For the reasons explained below, the Public Access Bureau concludes that the Executive & Legislative Committee (Committee) of the Vermilion County Board (Board) violated OMA by failing to properly post the agenda for its February 9, 2023, special meeting at a location where it was continuously available for public review for the full 48 hours in advance of the meeting.

On February 18, 2023, Board Representative Kevin Green submitted the above-referenced Request for Review alleging that the Committee violated OMA by failing to provide 48 hours' advance notice for its February 18, 2023, special meeting. In support of his allegation, Mr. Green provided a February 18, 2023, memorandum from the Board's Risk Consultant, Mr.

The Honorable Kevin Green  
The Honorable Larry Baughn  
August 23, 2023  
Page 2

Bill Donahue, in which he stated: [T]he agenda \* \* \* was not posted until approximately noon on February 9th when the meeting was at 5:00 PM on February 9, 2023"<sup>1</sup>

On March 1, 2023, this office forwarded a copy of the Request for Review to the Committee and asked it to provide a written response to Mr. Green's allegation and asked it to provide copies of the agenda, the meeting minutes (draft form, if necessary), and a recording of the meeting at issue, if such a recording existed.

On April 18, 2023, Mr. Baughn, provided to this office a combined response on behalf of the Committee concerning this Request for Review and a second matter (2023 PAC 75602). On that same date, this office forwarded a copy of the Board's response to Mr. Green with an opportunity to reply; he did not reply.

#### DETERMINATION

The public policy expressed in OMA includes that "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 2022).

Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2022)) provides that "[p]ublic notice of any special 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 2022)) further provides that:

Public notice shall be given by posting a copy of the notice at the principal office of the body holding the meeting or, if no such office exists, at the building in which the meeting is to be held. In addition, 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.)

Section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2020)) adds that:

The public body conducting a public meeting shall ensure that at least one copy of any requested notice and agenda for the meeting is **continuously available for public review** during the entire 48-hour period preceding the meeting. Posting of the notice and

---

<sup>1</sup>Memo from Bill Donahue to Kevin Green (February 18, 2023).

The Honorable Kevin Green  
The Honorable Larry Baughn  
August 23, 2023  
Page 3

agenda on a website that is maintained by the public body satisfies the requirement for continuous posting under this subsection (c). (Emphasis added.)

The Committee acknowledged that it failed to post a copy of the agenda for the February 9, 2023, special meeting on the County's website in a timely manner.<sup>2</sup> However, under the plain language of section 2.02(b), only the governing body of a public body is required to post meeting notices on the public body's website, provided that the website is maintained by full-time staff.<sup>3</sup> In this instance, the governing body of the County is the Board and OMA does not require the Committee, a subsidiary of the Board, to post its meeting agendas on the County's website. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 39074, issued April 12, 2018 (park district committee not required by OMA to post its meeting agendas on the park district website because it was not the governing body; the board of trustees was the governing body). While a subsidiary body such as the Committee may elect to post meeting materials on the County's website in the interest of transparency, declining to do so or a delay in doing so as acknowledged by the Committee does not violate OMA. Accordingly, this office concludes that the Committee did not violate section 2.02 of OMA in regards to its late posting of the agenda on the County's website for its February 9, 2023, special meeting.

Although not required to post its agendas on the County's website, sections 2.02(a) and 2.02(c) of OMA do require the Committee to post physical copies of its agendas at least 48 hours in advance of a meeting and to make the agenda "continuously available for public review during the entire 48-hour period preceding the meeting." The Public Access Bureau has previously determined that if a public body does not post meeting notices on its website, section 2.02(c) of OMA requires it to "post meeting notices in a location where they may be continuously viewable from the outside of [the building where the meeting is being held], such as on or near the front door or facing outward from a window." Ill. Att'y Gen. PAC Req. Rev. Ltr. 29886, issued September 16, 2014, at 2-3; *see also* Ill. Att'y Gen. PAC Req. Rev. Ltr. 48754, issued August 22, 2017, at 3, and Ill. Att'y Gen. PAC Req. Rev. Ltr. 49761, issued November 9, 2017, at 3-4.

In its response to this office, Mr. Baughn stated that the agenda was "posted on the county scrolling screen in the main hallway of the meeting location well within the 48 hour

---

<sup>2</sup>E-mail from Larry Baughn to Grace Angelos (April 18, 2023).

<sup>3</sup>In a telephone conversation with an Assistant Attorney General in the Public Access Bureau on June 13, 2023, Mr. Will Keister of the County's IT Department confirmed that the County's website is maintained by him, a full-time employee of the County.

The Honorable Kevin Green  
The Honorable Larry Baughn  
August 23, 2023  
Page 4

notice time."<sup>4</sup> In a telephone conversation on June 13, 2023, with an Assistant Attorney General in the Public Access Bureau, Mr. Will Keister of the County's IT Department explained that the building is locked during non-business hours and that the scrolling screen mentioned by Mr. Baughn is not readily visible from outside of the building. Because the agenda was posted in a location within the building that was not continuously available to the public for 48 hours before the meeting, and there is no indication that the Committee posted another copy of the agenda in a more visible location at the building, this office concludes that the Committee violated OMA by failing to provide sufficient advance notice for its February 9, 2023, special meeting.

Although not determinative of this dispute, the use of a scrolling screen to post meeting notices, regardless of its visibility, raises questions about whether it provides continuous availability in compliance with section 2.02(c) of OMA, especially if the screen scrolls through numerous electronic documents. Whether an agenda displayed on such a device would be "continuously available" would depend on the number of different notices/screens that are being shown, the duration of time each screen is shown, and the lapse in time before the same screen is shown again. To avoid the uncertainty of relying on the scrolling screen to fulfill its notice requirements, this office encourages the Committee to post a paper copy at a location where it is continuously viewable from outside of the building of its meeting location, such as on or near the front door or on an outward-facing window.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this file. If you have any questions, please contact me at the Chicago address on the bottom of the first page of this letter.

Very truly yours,



GRACE ANGELOS  
Assistant Attorney General  
Public Access Bureau

75604 o 202 notice improper co

---

<sup>4</sup>E-mail from Larry Baughn to Grace Angelos (April 18, 2023).