



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 14, 2023

PUBLIC ACCESS OPINION 23-003
(Request for Review 2022 PAC 74768)

OPEN MEETINGS ACT:
Improper Private Meeting

The Honorable Natasa Dzolic
Treasurer, Board of Trustees
Stickney-Forest View Public Library District
6800 West 43rd Street
Stickney, Illinois 60402

The Honorable Rosa Villanueva
President, Board of Trustees
Stickney-Forest View Public Library District
6800 West 43rd Street
Stickney, Illinois 60402

Dear Ms. Dzolic and Ms. Villanueva:

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 Board of Trustees (Board) for the Stickney-Forest View Public Library District (Library District) violated OMA by holding an improper private meeting on November 28, 2022.

BACKGROUND

On December 21, 2022, Ms. Natasa Dzolic, a Board trustee, submitted a Request for Review to the Public Access Bureau alleging that the Board improperly held a meeting on

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November 28, 2022, without following the requirements of OMA.¹ In particular, she asserted that no public notice was given for this gathering, and invitations to attend were e-mailed only to Board members and Library District staff.² Ms. Dzolic stated that the Board President and two other trustees attended the gathering and "discussed Library issues, salaries[], staff issues, etc."³

On January 3, 2023, the Public Access Bureau sent a copy of the Request for Review to the Library District's interim director to forward to the Board. The Public Access Bureau also sent a letter asking the Board to provide this office with copies of any notices, agendas, minutes, and recordings of the November 28, 2022, gathering for this office's confidential review.⁴ The letter further asked the Board to respond in writing to the allegation that the gathering constituted an improper private meeting and to explain the extent to which the Board discussed public business.⁵ On January 4, 2023, the Board submitted a written response, a link to a video recording of the meeting, and copies of two e-mails pertaining to the gathering.⁶ On that same date, this office forwarded a copy of the Board's response to Ms. Dzolic;⁷ she replied on January 10, 2023.⁸

¹E-mail from Natasa Dzolic, Treasurer, Stickney Forest View Public Library, to Public Access [Bureau, Office of the Attorney General] (December 21, 2022).

²E-mail from Natasa Dzolic, Treasurer, Stickney Forest View Public Library, to Public Access [Bureau, Office of the Attorney General] (December 21, 2022).

³E-mail from Natasa Dzolic, Treasurer, Stickney Forest View Public Library, to Public Access [Bureau, Office of the Attorney General] (December 21, 2022).

⁴Letter from Christina Lucente-McCullough, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Danielle Taylor, Interim Library Director, Stickney-Forest View Library Public Library District (January 3, 2023).

⁵Letter from Christina M. Lucente-McCullough, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Danielle Taylor, Interim Library Director, Stickney-Forest View Library Public Library District (January 3, 2023).

⁶E-mail from Danielle Taylor, Interim Director, Stickney-Forest View Public Library District, to Christina Lucente-McCullough (January 4, 2023).

⁷Letter from Christina M. Lucente-McCullough, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to The Honorable Natasa Dzolic, Trustee/Treasurer, Stickney Forest View Public Library (January 4, 2023).

⁸E-mail from Natasa Dzolic to Christina Lucente-McCullough (January 10, 2023).

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On February 16, 2023, the Public Access Bureau extended the time within which to issue a binding opinion by 21 business days, to March 21, 2023, pursuant to section 3.5(e) of OMA.⁹

ANALYSIS

"It is the public policy of this State that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business." 5 ILCS 120/1 (West 2020). "The Open Meetings Act provides that public agencies exist to aid in the conduct of the people's business and that the intent of the Act is to assure that agency actions be taken openly and that their deliberations be conducted openly." *Gosnell v. Hogan*, 179 Ill. App. 3d 161, 171 (5th Dist. 1989).

For the requirements of OMA to apply, a gathering must constitute a "meeting" as defined by section 1.02 of OMA (5 ILCS 120/1.02 (West 2020)):

"Meeting" means any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of **a majority of a quorum of the members of a public body held for the purpose of discussing public business** or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business (Emphasis added).

If a gathering of public body members is determined to be a "meeting," then the procedural safeguards and requirements of OMA apply. Those measures include proper posting of notice and an agenda (5 ILCS 120/2.02 (West 2020)), holding the meeting at a specified time and place that is convenient and open to the public (5 ILCS 120/2.01 (West 2020)), keeping minutes (5 ILCS 120/2.06(a) (West 2020)), and allowing public comment (5 ILCS 120/2.06(g) (West 2020)).

The mere presence of a majority of a quorum of a public body's members at a gathering does not trigger the requirements of OMA. See *University Professionals of Illinois v. Stukel*, 344 Ill. App. 3d 856, 868 (1st Dist. 2003) (acknowledging that OMA is not "triggered

⁹Letter from Christina M. Lucente-McCullough, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to The Honorable Natasa Dzolic, Trustee/Treasurer, Stickney-Forest View Public Library District, and Danielle Taylor, Interim Library Director, Stickney-Forest View Public Library District (February 16, 2023).

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every time public officials meet and converse"). "Rather, the Act is designed to prohibit secret deliberation and action on business which properly should be discussed in a public forum due to its potential impact on the public." *People ex rel. Difanis v. Barr*, 83 Ill. 2d 191, 202 (1980). In *Nabhani v. Coglianesi*, 552 F. Supp. 657, 660–61 (N.D. Ill. 1982), the court elaborated:

A "meeting" under the Act, has been variously described as a gathering "designed to discuss or reach an accord with regard to public business,"[citation], or as "collective discussion...and exchange of facts preliminary to the ultimate decision." [Citation] Webster's Third New International Dictionary (1976) defines "deliberate" as follows: "to ponder or think about with measured careful consideration and often with formal discussion before reaching a decision or conclusion."

According to the Library District's website, the full Board consists of seven members: the president and six trustees.¹⁰ Accordingly, four Board members constitute a quorum and three members constitute a majority of a quorum. Therefore, pursuant to the definition of "meeting" set forth above, if three members of the Board met on November 28, 2022, for purposes of discussing public business, that gathering would be subject to the requirements of OMA.

The Board's response to this office did not dispute that three trustees attended a gathering on November 28, 2022, but it denied that the gathering was a "meeting" of the Board. The Board stated:

On November 28, our Board President, Rosa Villanueva, invited all staff and Trustees to a Meet and Greet. This was not a meeting of a public body, but more an informal gathering where all staff and Trustees could meet, get to know each other and ask questions or state concerns any staff had. The Meet and Greet was hosted in person and via Zoom to accommodate any staff member or Trustee that was not able to attend in person[.]^[11]

¹⁰Library Board, Stickney-Forest View Public Library District, Library Board, <https://www.sfvpld.org/Pages/Index/183355/library-board> (last visited Feb. 15, 2023).

¹¹Letter from Danielle Taylor, Interim Director, Stickney-Forest View Public Library, to [Christina Lucente-McCullough, Assistant Attorney General, Public Access Bureau] (January 4, 2023).

The Board also provided a list of nine questions that staff members asked Board members during this gathering:

1. Do you guys realize we do serve the public even if we're not out at a front desk?
2. Can you please speak to Geralyn's question about the sound and the approach when you're addressing each other at the Board, civility, could you please speak to that a little slower so that I can understand it?
3. I understand things can get heated in meetings. How about always coming back to getting control?
4. Can you explain why we got rid of the Building & Maintenance Tax?
5. Shouldn't we be supporting the Library?
6. Did any taxpayers express concerns about it or to get rid of it [the Building & Maintenance Tax], like why was it even brought up to get rid of?
7. I also heard that you guys were going to stop putting the Board meetings up on YouTube. Is that true?
8. I'm asking for transparency and clarification on why these decisions are being made.
9. Why are they on the Board if they're not going to utilize the Library?^[12]

In her reply, Ms. Dzolic disputed the Board's depiction of the November 28, 2022, meeting as an informal gathering. She argued that the Board President and the Library District Interim Director "refer several times in the response letter as this being a meeting."¹³ She also emphasized that the trustees answered the list of questions posed by staff members in the Board's response.¹⁴

This office's review of the video recording corroborated that three Board members physically attended and participated in the November 28, 2022, gathering. Although the Board argued this was simply an informal "meet and greet" between staff and the Board, the recording

¹²Letter from Danielle Taylor, Interim Director, Stickney-Forest View Public Library, to [Christina] Lucente-McCullough (January 4, 2023).

¹³E-mail from Natasa Dzolic to Christina Lucente-McCullough (January 10, 2023).

¹⁴E-mail from Natasa Dzolic to Christina Lucente-McCullough, Assistant Attorney General, Public Access Bureau (January 10, 2023).

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reflects more than a social gathering. Rather than speaking informally with individual trustees for purposes of getting to know them, staff members presented questions and concerns about substantive library issues. Although the Board president led much of the ensuing discussions, the other two Board members did participate at times.

The Attorney General has concluded that "informal sessions or conferences designed for the discussion of public business[]" are meetings subject to the requirements of OMA. Ill. Att'y Gen. Op. No. S-726, issued March 22, 1974, at 5. That opinion cited with approval the California Appellate Court's ruling that a "meeting" under California's version of OMA¹⁵ "connotes not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision." *Sacramento Newspaper Guild v. Sacramento County Board of Supervisors*, 263 Cal. App. 2d 41, 47-48, 69 Cal. Rptr. 480, 485 (Cal. Ct. App. 1968). The court further explained:

An informal conference or caucus permits crystallization of secret decisions to a point just short of ceremonial acceptance. * * *.
Only by embracing the collective inquiry and discussion stages, as well as the ultimate step of official action, can an open meeting regulation frustrate these evasive devices. (Emphasis added.)
Sacramento Newspaper Guild, 263 Cal. Ct. App. 2d at 50, 69 Cal. Rptr. at 487.

See also Kamlet v. Board of Education, 399 N.Y.S.2d 366, 367 (N.Y. 1997) (rejecting school board's characterization of planning sessions in which school employees and prospective contractors provided oral reports as "informal gatherings" because "the format and the substantive nature of" the planning sessions compelled "a determination that they are 'meetings'" subject to the state's open meetings law); *Acker v. Texas Water Commission*, 790 S.W.2d 299, 300 (Tex. 1990) ("When a majority of a public decisionmaking body is considering a pending issue, there can be no 'informal' discussion. There is either formal consideration of a matter in compliance with the Open Meetings Act or an illegal meeting.").

In this matter, the Board President led a collective discussion on the staff questions and concerns, and the other trustees commented or weighed in at times. The discussion directly concerned various matters of Library District business. Specifically, the three Board members engaged in an interactive discussion with Library District staff about topics such as staff salaries, employment status, insurance benefits, the Building & Maintenance Tax, and how Board members conducted themselves during meetings. While there is no indication that the Board intended to reach an accord on any issues at the time of this discussion, a majority of a

¹⁵Cal. Gov. Code § 54950-54960 (West 1966).

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quorum of Board members nonetheless engaged in the collective inquiry phase of deliberations by gathering and exchanging information in anticipation of possibly taking future action. Indeed, the Board President repeatedly stated that the video recording would be shared with all Board members so that the staff's questions and concerns could be addressed by the Board as a whole. The requirements of OMA apply not only to those gatherings in which public bodies take formal actions, but also to discussions of public business for the purpose of collecting information. *See* 5 ILCS 120/1 (West 2020) ("The General Assembly further declares it to be 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.") (Emphasis added). Under these circumstances, this office concludes that the gathering of three Board members on November 28, 2022, constituted a "meeting" subject to the requirements of OMA. Accordingly, because the Board did not provide advance public notice of the November 28, 2022, meeting or otherwise follow OMA's procedures and requirements, the Board violated OMA on that date.

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 November 28, 2022, the Board of Trustees for the Stickney-Forest View Public Library held a gathering that three Board members and Library District staff attended.
- 2) On December 21, 2022, Trustee Natasa Dzolic submitted a Request for Review to the Public Access Bureau alleging that the Board violated OMA by holding a gathering in which library issues were discussed without adhering to the advance notice requirements of OMA. Ms. Dzolic'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 January 3, 2023, the Public Access Bureau sent a copy of the Request for Review to the Library District's interim director to forward to the Board and asked the Board to provide copies of any notices, agendas, minutes, and recordings from its November 28, 2022, gathering. This office also requested a written response to the allegation that this gathering constituted an improper private meeting, including an explanation of the extent to which the Board discussed the transaction of public business.
- 4) On January 4, 2023, the Board furnished its written response and a copy of a video recording of the November 28, 2022, gathering. The same day, this office forwarded a copy of the Board's response to Ms. Dzolic.

5) On January 10, 2023, Ms. Dzolic submitted a reply.

6) Section 1.02 of OMA defines a "meeting" as "any gathering * * * of a majority of a quorum of the members of a public body held for the purpose of discussing public business or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business[.]" The full Board consists of seven members. Accordingly, four Board members constitute a quorum and three members are a majority of a quorum.

7) If a gathering of public body members is determined to be a "meeting," then all the requirements of OMA apply, including proper posting of notice and an agenda, holding the meeting at a specified time and place that is convenient and open to the public, keeping minutes, and allowing public comment. During the November 28, 2022, gathering, the three Board members engaged in an interactive discussion with Library District staff about matters of public business upon which the Board may take action in the future.

8) Because discussions of public business for the purpose of collecting information are the collective inquiry of the deliberative process, the November 28, 2022, gathering constituted a "meeting" subject to the requirements of OMA.

In accordance with these findings of fact and conclusions of law, the Public Access Bureau concludes that the Board violated OMA by holding a meeting on November 28, 2022, without providing advance public notice or complying with the other requirements of OMA. The Board is directed to make the video recording of its November 28, 2022, gathering publicly available and to generate and approve written minutes for the meeting. The Board is also directed to ensure that future gatherings in which three or more of its members engage in deliberative discussions of public business are held in full compliance with the requirements of OMA.


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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. Natasa Dzolic 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

cc: Ms. Danielle Taylor
Interim Library Director
Stickney-Forest View Public Library District
6800 West 43rd Street
Stickney, Illinois 60402

CERTIFICATE OF SERVICE

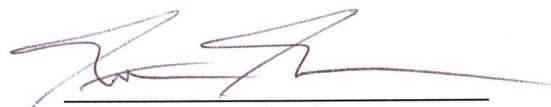
Steve Silverman, Bureau Chief, Public Access Bureau, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 23-003) upon:

The Honorable Natasa Dzolic
Treasurer, Board of Trustees
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Natasa_dz@yahoo.com

The Honorable Rosa Villanueva
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Stickney-Forest View Public Library District
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Ms. Danielle Taylor
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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 March 14, 2023.



STEVE SILVERMAN
Chief, Public Access Bureau

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