



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 26, 2024

Via electronic mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via electronic mail

Ms. Drella C. Savage
Village Administrator
Village of Olympia Fields
20040 Governors Highway
Olympia Fields, Illinois 60461
dsavage@olympia-fields.com

RE: OMA Request for Review – 2023 PAC 79291

Dear [REDACTED] and Ms. Savage:

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 Village of Olympia Fields Board of Trustees (Board) violated OMA by interfering with [REDACTED] ability to record the Board's November 8, 2023, regular meeting.

BACKGROUND

On December 10, 2023, this office received [REDACTED] Request for Review alleging that, at the Board's November 8, 2023, meeting, he "was ordered by Police Chief Derek Blessingame to stop recording the meeting. Ordering me to stop recording the meeting was a violation of the Open Meetings Act. President Burke did not intervene. I sat down, stopped

500 South 2nd Street
Springfield, Illinois 62701
(217) 782-1090 • Fax: (217) 782-7046

115 South LaSalle Street
Chicago, Illinois 60603
(312) 814-3000 • Fax: (312) 814-3806

1745 Innovation Drive, Suite C
Carbondale, Illinois 62903
(618) 529-6400 • Fax: (618) 529-6416

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recording, and left the meeting."¹ ██████████ explained that this interaction occurred during the public comment portion of the meeting.

On December 13, 2023, this office sent a copy of the Request for Review to the Board and asked it to provide a written response to the allegation in ██████████ Request for Review, along with copies of its November 8, 2023, meeting minutes and any available recordings. On January 9, 2024, the Board responded. On January 10, 2024, this office forwarded a copy of the Board's response to ██████████. On January 9, 2024, and January 10, 2024, ██████████ replied to the Board's response. He maintained that the Board failed to intervene when the police chief told him to stop recording.

DETERMINATION

Section 2.05 of OMA (5 ILCS 120/2.05 (West 2022)) provides:

Subject to the provisions of Section 8-701 of the Code of Civil Procedure, any person may record the proceedings at meetings required to be open by this Act by tape, film or other means. The authority holding the meeting shall prescribe reasonable rules to govern the right to make such recordings.

In its response to this office, the Board stated that it does not currently have a rule governing the public's right to record at its meetings and that it provides members of the public two minutes each to speak during the public comment portion of its meetings. The Board explained that during the meeting in question, a heated exchange occurred when the Village Clerk informed ██████████ that he had 10 seconds remaining during his comments. The Board stated that Police Chief Blasingame asked ██████████ to stop recording in "an effort to de-escalate the situation, in which ██████████ became disruptive and unduly argumentative with the Village President" over the time allotted for his public comment.²

This office has reviewed an audio recording of the meeting in question. When the Police Chief first told ██████████ to stop recording, ██████████ asked why and was told he was "done" and that his "time was up." ██████████ stated he was not going to stop

¹E-mail from ██████████ to Public Access Counselor, Office of the Attorney General (December 10, 2023).

²Letter from Drella C. Savage, Village Administrator/Chief of Staff, Freedom of Information Officer, Village of Olympia Fields, to Benjamin Silver, Assistant Attorney General, Office of the Attorney General, Public Access Bureau (January 9, 2024), at [2].

recording, and the Police Chief replied that he was "done, take it out in the hallway." [REDACTED] then stated that he would not turn off his recording and apparently left the meeting.³

Regardless of the Board's public comment policy, it is undisputed that the Police Chief asked [REDACTED] to stop recording and that the Board has not prescribed any rules that would limit [REDACTED] right to record. Although there was a disagreement over the two-minute time limit for public comment and [REDACTED] became argumentative, the Board did not demonstrate that he acted in an unruly manner or that his recording of the meeting actually interfered with the orderly conduct of the proceedings. Indeed, it is unclear why the Board believes requiring [REDACTED] to stop recording was necessary to "de-escalate" the disagreement as the argument concerned [REDACTED] demand to continue speaking, not recording.

Absent rules that could have restricted [REDACTED] ability to continue recording, the police chief's instruction interfered with [REDACTED] statutory right to record the meeting, even if the Board did not physically attempt to turn off his laptop device. By remaining silent during [REDACTED] interaction with the Police Chief, the Board effectively facilitated the termination of his ability to record. Accordingly, this office concludes that the Board violated section 2.05 of OMA. To remedy that violation, the Public Access Bureau directs the Board to permit members of the public to record its open meetings, subject only to the reasonable rules the Board may prescribe.

Although the Board's time limit on public comments was not the subject of review in this matter, the Office of the Public Access Counselor is charged with providing advice and education to both public officials and the public. *See* 15 ILCS 205/7(a), (b), (c) (West 2022). To that end, section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2022)) provides that "[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body." The Attorney General has previously explained in a binding opinion that a public body may restrict public comment only pursuant to its established and recorded rules, which must tend to accommodate, rather than unreasonably restrict, the right to address public officials. Ill. Att'y Gen. Pub. Acc. Op. No. 14-012, issued September 30, 2014, at 6; *see also* Ill. Att'y Gen. Pub. Acc. Op. No. 19-002, issued January 9, 2019 (board improperly enforced a rule on public comment that was not established and recorded in violation of section 2.06(g)). The Board stated that members of the public who wish to address the Board are given the same two-minute directive, but it does not appear that the Board has established and recorded any rules regulating public comment.⁴ Indeed, the Board stated that its Village Code of

³Village of Olympia Fields Board of Trustees, Meeting, November 8, 2023, Audio File, at 2:33:30-2:33:50 (on file with Public Access Bureau).

⁴*See* Code of Ordinances, Olympia Fields, IL, *available at* https://library.municode.com/il/olympia_fields/codes/code_of_ordinances, last accessed February 1, 2024.

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Ordinances is silent on the issue of a time limit. If the Board wishes to reasonably limit the amount of time a member of the public may speak, it must establish and record such a rule.

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 matter. If you have any questions, please contact me at benjamin.silver@ilag.gov or (773) 590-7878.

Very truly yours,

[REDACTED]

BENJAMIN J. SILVER
Assistant Attorney General
Public Access Bureau

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