

Requestor:

Josh Verbarq
<redacted>

Public Body: Heyworth Community Unit School District No. 4

Date of Alleged Violation of OMA by public body: 2/6/19, 3/1/2019, 3/20/2019

Summary of facts supporting my allegations that the public body violated OMA on 2/6/19:

Subcommittee meetings scheduled for 1/23/19 where cancelled due to bad weather. The sub-committee meetings that where rescheduled from 1/23 to 2/6 did not have public notice published. I arrived at the district office on 1/23 and spoke with Lisa Taylor who let me know that the meetings were cancelled, and likely rescheduled to the following week and she'd likely make a Facebook post about the new dates. Also discussed was the fact that she felt that she'd cancelled them on the district calendar, but those changes were not synced to the website yet. The school was closed again the following week due to cold, there was no Facebook post, nor was the event calendar updated at least 48 hours in advance. I've subscribed to the district calendar so I can get notices about District Board events, and none of these rescheduled sub-committee meetings are showing up in the subscription. My facts supporting this allegation are weak. Since the district ignored the part of my FIOA for the details of all meetings held by this public body in their reply I don't have the full details to support this allegation.

The aspects I do have is Exhibit S. This is a copy of my browser history showing that I reviewed the web site on Feb 3rd to determine if the meeting was going to be held. It was not posted at that time. Due to work schedule, I failed to visit the web-site within the 48-hour posting time frame, nor did I drive by the District Office. I made a bad assumption that the public body would post a notice on their Facebook page as personally promised.

Exhibit T demonstrates that the calendar event subscription service the public body provides through their web site does not match the calendar published on their web site, compare to Exhibit U. Both of these screenshots [were] taken at the same time. Although posting the info like this is not a requirement of the OMA, the public body has created an expectation that this information is clear, correct and up to date. This is misleading and worst case a criminal intent to defraud the public.

Exhibit V is the FIOA request I've sent to the Superintendent, who is the acting FOIA officer for the district requesting copies of all meeting agendas and minutes.

Exhibit W is the response pointing me to the website.

Exhibit X is a printed representation of the current agendas and minutes posted in response to my FIOA request. The subcommittee agendas and minutes are not there.

At this time, I am not requesting a review of the FOIA request and response. I [am] waiting for the public body to respond to a follow-up I've [sent] letting them know of the deficiencies in their

response. Just including them as facts to help support my allegations. Once the public body responds, I may be able to add additional facts if this review feels it's needed.

The reason I bring up this date as a violation, is to show evidence that this behavior was observed in early February as a violation, I've tried working with the public body to correct the behavior in between the two violations in this review, but as you will see on the next violation, it escalates.

Summary of facts supporting my allegations that the public body violated OMA on 3/1/19:

On 2/28/19, I sent an e-mail to Ms. Taylor documenting how the Heyworth Board of Education meetings are violating the Illinois Open Meetings Act (Exhibit O). Ms. Taylor replied the next day, confirming that she received a copy and stating she would share it with the board, (Exhibit P). On 3/1/19 a change was made to partially address item 1, in which the location of the regular meetings was not included on the notice. This notice is still not posted in a publicly visible location at the public bodies main district office. But, the district then created a worse violation by entirely removing from the web site the notice of all the regular meeting schedule for all the sub-committees formed by the governing body of the public body. This notice again, is not posted at the public bodies main district office.

Evidence of this fact is Exhibits B, C, D, E, and J. You can see the meeting schedules posted at the High School location in Exhibit N. But that location is behind locked and closed doors if school is not open, and not readable by any member of the public at any time, so I'm not able to determine if that notice has been updated with the locations of the regular meetings. I'm not aware of any other locations it's posted. I've not thoroughly checked at the Elementary School location, but no meetings are regularly scheduled at that location.

Exhibit Y is a copy of the regular meeting schedule of the governing body that was available before 3/1/19.

Exhibit Z is a copy of the regular meeting schedule of the governing body that is now available after 3/1/19

Exhibit AA is a copy of the committee meeting schedule that was available before it was removed on 3/1/19.

Summary of facts supporting my allegations that the public body violated OMA on 3/20/19:

On 2/28/19, I sent an e-mail to Ms. Taylor documenting how the Heyworth Board of Education meetings are violating the Illinois Open Meetings Act (Exhibit O). Ms. Taylor replied the next day, confirming that she received a copy and stating she would share it with the board, (Exhibit P). I've seen some changes reflected on the website that resolve some of the issues raised. The meeting the Heyworth Community Unit School District No. 4 Board of Education conducted on 3/20/19 violates items 2 and 3 of the 11 documented in that e-mail.

To summarize the requirement, Open Meetings Act, 5 ILCS 120/2.02(a), "An agenda for each regular meeting shall be posted at the principal office of the public body and at the location where the meeting is to be held at least 48 hours in advance of the holding of the meeting. A public body that has a website that the full-time staff of the public body maintains shall also post on its website the agenda of any regular meetings of the governing body of that public body."

The districts attorneys office runs a blog, and on 2/19/13 posted the following regarding meeting agenda posting. "In addition, be sure that your place of posting - in addition to the school district's website - is in a location that can be accessed by the public at any time (i.e. an outside window)."

<http://www.millertracy.com/content/reminder-open-meetings-act-posting-requirements>

I stopped by the District offices and the Heyworth High school on 3/18/19 shortly before 8pm. Took pictures of the outside of the building, entered the doors I could to take pictures of what seemed to be appropriate areas to publicly post the required agenda. As you can see in the Exhibit B through I, the agendas were not posted. Before going to the school board meeting on 3/20/19 at about 6:30pm, I again, drove by the district office and took pictures as I entered the High School building where the Board meeting takes place. The agenda still is not posted as seen in Exhibit J through N.

After getting home on 3/18/19, I checked the District web site. As you can see in the attached Exhibit A, the agenda was not posted on the web site at that time. Before going to the board meeting on 3/20/19 at 6:30pm I double-checked the web site and it was still not posted. In fact, as of sending this request for review, the Agenda still has not been posted publicly and not enough copies were made for everyone at the meeting to receive a copy. I was one of the first at the meeting and got a copy, attached as Exhibit Q.

There is an exception to that requirement allowed by 5 ILCS 120/2.02(c), "If a notice or agenda is not continuously available for the full 48-hour period due to actions outside of the control of the public body, then that lack of availability does not invalidate any meeting or action taken at a meeting." Since I was able to get a copy of the 3/20/19 agenda from district staff early on 3/19/19, I do not believe this exception exists.

At the board meeting on 3/20/19, during the public comment section I addressed the board. I provided a handout to each board member including Exhibit R (only page 1) and Exhibit O (All ages). I provided them a single copy of Exhibits A through I to share. I verbally read Exhibit R,

making a few additional comments based on the review I'd just completed of the District offices and the entryway to the high school. The board did not respond. The board president whispered something to the Superintendent who nodded and whispered something back. The board president then continued to conduct the meeting.

Linked are two audio recordings I made of the Board of Education Meeting on 3/20/19. Due to the size of these files I cannot attach them as exhibits but have provided links to the audio files hosted in my personal google drive. These are publicly accessible with no login required.

https://drive.google.com/open?id=1tqjTz7d2el_zTusko2t_wopt9ukY_z-d is the first part of the meeting before they closed the meeting. I start talking at about 16:45 in that recording.

https://drive.google.com/open?id=1o4Uimx1wUfHh7HoeY_ic2KwhaMwCCFKU is the second part of the meeting after they re-opened it.

I feel that the board willfully and knowingly conducted a meeting, including taking final action in violation of Open Meetings Act, 5 ILCS 120/2.02(a).

I would ask that the Public Access Counselors office determine that this violation occurred, and if so, invalidate all final action taken at this meeting, and require that the public body post all notices and agendas in compliance with the OMA.

I hereby submit this request for the PAC to review this potential OMA violation.

Thanks,
Josh Verbarg

Dated: 3/21/2019