

GRAFTON TOWNSHIP SPECIAL BOARD MEETING MINUTES
April 25, 2013

1. Call to Order

Supervisor Moore called the meeting to order at 7:00 p.m.

2. Roll Call

Present: Supervisor Moore, Trustees Zirk, Murphy, Road District Commissioner Freund, Clerk Ford; Absent: Trustee LaPorta, McMahon and Assessor Ottley.

3. Pledge of Allegiance

The Pledge of Allegiance was said.

4. Public Comment

Clerk Ford presented a letter from the Illinois Attorney General's Office stating that the Supervisor had failed to respond to the complaint filed regarding a violation of the OMA. Clerk Ford stated that as the OMA Officer for the Township, she encouraged Supervisor Moore to respond to this second request in a timely manner. (EXHIBIT I)

5/6. Discussion and potential action on the Board to sign a letter approving the FY ending 2011 Audit and Management Letter from Evans, Marshall, Pease; Discussion and potential action for the Board to Sign the Management Representation letter for the FY ending 2011 for Evans, Marshall and Pease.

Motion by Trustee Murphy, seconded by Supervisor Moore to approve the Board to sign a letter approving the FY ending 2011 Audit and Management Letter from Evans, Marshall, Pease; for the Board to Sign the Management Representation Letter for the FY ending 2011 for Evans, Marshall and Pease.

Discussion: Trustee Zirk stated she will vote AYE, but she has great reluctance since the audits and reports are filled with errors.

AYES: Supervisor Moore, Trustees Murphy, Zirk

NAYS: None

ABSENT: Trustees LaPorta, McMahon MOTION PASSED.

Motion by Trustee Murphy, seconded by Trustee Zirk, to permit Public Comment. All elected officials present voted AYE. MOTION PASSED.

Martin Waitzman-Errors should still be corrected. He explained that these documents are a representation of the summary of the records presented by the Supervisor to the auditors.

Joe Holtorff-All financial records provided to the auditors are the property of the Township and should be returned to the Township.

7. Discussion and potential action for the Township to approve a contract to engage an auditor to complete the Annual Audits for the FY ending 2012 and 2013.

Motion by Trustee Murphy, seconded by Trustee Zirk, to approve a contract with George Roach to complete the Annual Audits for the FY ending 2012 and 2013.

AYES: Trustees Murphy, Zirk, Supervisor Moore

NAYS: None

ABSENT: Trustees LaPorta, McMahon
MOTION PASSED.

8. Adjournment

Motion by Trustee Murphy, seconded by Trustee Zirk, to adjourn the meeting. All present voted AYE. MOTION PASSED. Meeting adjourned at 7:12 p.m.

Submitted,



Harriet Ford, Grafton Township Clerk

EXHIBIT I



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 22, 2013

Ms. Harriet Ford
Grafton Township Clerk
10109 Vine Street
Huntley, Illinois 60142

RE: OMA Request for Review – 2013 PAC 23656

Dear Ms. Ford:

This is our second further inquiry letter seeking a response to a Request for Review pursuant to section 3.5(a) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(a) (West 2010)) in which Mr. Stephen DiBenedetto alleges that the Grafton Township Board (Board) violated the requirements of OMA at its March 6, 2013, meeting. Specifically, Mr. Di Benedetto alleges that the Board failed to give public notice at least 48 hours in advance of the March 6, 2013, meeting and that no *bona fide* emergency existed which would justify less than 48 hours public notice as provided for in section 2.02(a) of OMA. (5 ILCS 120/2.02(a) (West 2011 Supp.), as amended by Public Act 97-827, effective January 1, 2013).

On March 13, 2013, this office forwarded a copy of the Request for Review to Board Supervisor Linda Moore and requested copies of the agenda and minutes of the March 6, 2013 Board meeting and a written response to Mr. Di Benedetto's allegations. Ms. Moore subsequently advised an Assistant Attorney General that she would submit a response. However, to date, no response has been received even though section 3.5(b) of OMA provides that "[w]ithin 7 *working days after receipt of the request for review*, the public body shall provide copies of the records requested and shall otherwise fully cooperate with the Public Access Counselor." (Emphasis added.) Therefore, please forward this letter and its enclosures to the entire Board, which should *designate a representative to immediately respond to this request as required by section 3.5(b) of OMA*.

This response should respond to the allegation that 48 hours advance public notice was not provided for the March 6, 2013, meeting. If less than 48 hours advance public notice was given, describe the circumstances that created a *bona fide* emergency justifying the lack of

Ms. Harriet Ford
April 22, 2013
Page 2

public notice. Please provide any agendas or minutes created in relation to the March 6, 2013, meeting.

As we conduct our review of this matter, we will notify you if we need to review additional records or information. You have the option under the Act to provide a written response to these allegations in addition to the requested materials. That response may take the form of a letter, brief or memorandum. Please note that under the Act, we are required to forward a copy of any response from a public body to the requester and provide the requester an opportunity to reply. 5 ILCS 120/3.5(c) (West 2010). The Act also permits a public body to provide a redacted version of any response for release to the requester. If you believe that other documents or information would be helpful to us as we review the issues, you may submit additional records or affidavits.

If you have any questions, please contact me at (312) 814-8413.

Very truly yours,



ROB OLMSTEAD
Assistant Attorney General
Public Access Bureau

Enclosure

Via electronic mail
cc: Mr. Stephen DiBenedetto
Northwest Herald
7717 South Route 31
Crystal Lake, Illinois 60014
sdibenedeto@shawmedia.com

Access, Public

From: Stephen DiBenedetto - SSM <sdibenedetto@shawmedia.com>
Sent: Thursday, March 07, 2013 5:53 PM
To: Access, Public
Subject: Open Meetings Act Request for Review
Attachments: OMA review request.txt

RECEIVED

MAR 08 2013 23656

Public Access
Counselor

This is a request for review of a potential violation of the Illinois Open Meetings Act [5 ILCS 120].

On Wednesday, March 6, 2013, Grafton Township Supervisor Linda Moore sent notice and an agenda of an emergency meeting at 1:53 p.m. to be held at 6 p.m. at Grafton Town Hall four hours later. Moore cited Illinois statute [5 ILCS 120/2.02(a)] that states a public body in the event of a "bona fide emergency" can bypass the 48-hour notice required in the Illinois Open Meetings Act.

Supervisor Moore argued the meeting constituted a "bona fide emergency," since the township had been facing a financial crisis that threatened the township's cash flow and ability to pay employees on the township payroll. The Township Board authorized Moore during a special meeting on Feb. 20 to pay back a \$300,000 loan to the Township Road District by the end of March 2013, per the wishes of the township electors during the annual township meeting in 2012. Moore argued the \$300,000 loan, once paid, would leave the township with a \$113,866.30 deficit that would threaten the township's ability to make payroll and remain operational.

The Township Board subsequently convened at 6 p.m., with a quorum, and proceeded to vote on a motion that postponed the emergency meeting until next week, with a date to be determined between Tuesday, March 12 and Thursday, March 14. The motion passed by a 3-1 vote, with Moore being the lone "no" vote. Township trustees in favor of the motion argued Moore had not paid the \$300,000 loan and had enough money to make the township's payroll obligations in the immediate future; thus, the emergency meeting was not needed.

After the meeting, Moore said that she had not yet paid the \$300,000 loan and had enough money in the township budget to pay the township's payroll obligations for the week. She said she paid the township payroll on Tuesday, March 5.

In a June 20, 2011, opinion involving OMA compliance with the Shumway Fire Protection District, the Illinois Attorney General's Office of the Public Access Counselor cited Black's Law Dictionary that defined "bona fide" to mean "[i]n or with good faith, honestly, openly and sincerely; without deceit or fraud." The Office of the Public Access Counselor also cited that Black's Law further defined "emergency" as meaning an "unforeseen combination of circumstances that calls for immediate action without time for full deliberation."

In Grafton Township's case, the supervisor had made payroll for the week, trustees had been aware of the \$300,000 loan and its effect on the township budget, and the \$300,000 loan had not yet been paid.

I'm requesting a review of the Grafton Township Board's compliance with the Open Meetings Act, since the meeting convened on Wednesday, March 6, did not constitute a "bona fide emergency" and the supervisor failed to provide the required 48-hour notice of the public meeting. The meeting did not constitute a "bona fide emergency" because the financial crisis, although severe, did not threaten the operations of the township to the point that it could not wait 48 hours to be resolved.

Signed,

Stephen Di Benedetto
Northwest Herald Reporter
sdibenedetto@shawmedia.com
Office: (815) 526-4582
Cell: (847) 902-7040
Fax: (815) 459-5640

OMA review request
OMA D REQUEST FOR REVIEW BY PUBLIC ACCESS COUNSELOR (PAC)

Note to Requester: You must file a Request for Review within 60 calendar days of the date of the alleged violation of the Open Meetings Act (OMA). If the alleged OMA violation occurred more than 60 days ago, the Public Access Counselor cannot accept your Request for Review.

Name of Requester: Stephen Di Benedetto_____

Requester's Contact Information

Address: 7717 S. Route 31, Crystal Lake, Illinois,
60014_____

Telephone Number: 815 526 4582_____

E-mail Address (optional):
sdibenedetto@shawmedia.com_____

I hereby submit this request for the Public Access Counselor to review this potential Open Meetings Act (OMA) violation.

Date of Alleged Violation of OMA by Public Body: Wednesday, March 6,
2013_____

Name of Public Body: Grafton Township (McHenry
County)_____

Please provide a summary of the facts supporting your allegations that the public body failed to comply with the Open Meetings Act (additional pages may be attached, if necessary):

See attachment_____

OMA review request

Signature of Requester: _____

♀