



State of Rhode Island and Providence Plantations

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**VIA EMAIL ONLY**

June 5, 2020

OM 20-30

Mr. Thomas Dubois

John J. DeSimone, Esq.  
City Solicitor, City of Woonsocket

**RE: Dubois v. Woonsocket City Council**

Dear Mr. Dubois and Attorney DeSimone:

We have completed an investigation into the Open Meetings Act (“OMA”) complaint filed by Mr. Thomas Dubois (“Complainant”) against the Woonsocket City Council (“City Council”). For the reasons set forth herein, we find that the City Council did not violate the OMA.

*Background*

The Complainant contends that the City Council violated the OMA during its January 27, 2020 meeting by discussing “CVS and legislation relating to it” without those items being properly noticed on the meeting agenda. The Complainant states that this occurred during the “last 8 or so minutes” of the meeting, when Councilman Cournoyer brought “up legislative topics that were not on the agenda,” despite the efforts of another councilman to stop this discussion.

Attorney John J. DeSimone submitted a response on behalf of the City Council. The City Council notes that the agenda item that spurred Councilman Cournoyer’s comments was “Resolution 20 R 12 – Ensuring That Any Relocation or Replacement of the ‘John R. Dionne Track and Field’ Will Remain So Designated.”<sup>1</sup> The City Council argues that, in discussing this properly noticed agenda

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<sup>1</sup> The record indicates that this resolution pertained to whether the name of the track and field would be changed or would remain designated as the “John R. Dionne Track and Field.” The Complainant did not take issue with the wording of this agenda item, but rather alleged that the OMA was violated when the City Council discussed a different topic related to CVS. As such, we

item, Councilman Kithes expressed his opposition to the resolution and, in so doing, “attacked” Mr. Dionne’s character. Councilman Cournoyer’s subsequent mention of CVS, the City Council argues, was merely a passing reference to an example of a past, false assertion made by Councilman Kithes. The City Council avers that Councilman Cournoyer made this comment in order to impeach Councilman Kithes’ credibility as to the issue at hand, namely, Mr. Dionne’s character as it relates to Resolution 20 R 12.<sup>2</sup> The City Council asserts that the resolution and supporting documents discussing Mr. Dionne’s contributions to the City were attached to the agenda posted on the Secretary of State’s website and provided notice that Mr. Dionne’s “contributions,” to the extent they related to the resolution, could be discussed and debated.

We acknowledge the Complainant’s rebuttal.

Relevant Law & Findings

When we examine an OMA complaint, our authority is to determine whether a violation of the OMA has occurred. *See* R.I. Gen. Laws § 42-46-8. In doing so, we must begin with the plain language of the OMA and relevant caselaw interpreting this statute.

The OMA requires that all public bodies provide supplemental public notice of all meetings at least forty-eight (48) hours in advance of the meeting. *See* R.I. Gen. Laws § 42-46-6(b). “This notice shall include the date the notice was posted, the date, time and place of the meeting, and *a statement specifying the nature of the business to be discussed.*” *Id.* (Emphasis added).

In *Anolik v. Zoning Board of Review of the City of Newport*, the Rhode Island Supreme Court held that R.I. Gen. Laws § 42-46-6(b) requires the “public body to provide fair notice to the public under the circumstance, or such notice based on the totality of the circumstances as would fairly inform the public of the nature of the business to be discussed or acted upon.” 64 A.3d 1171, 1173 (R.I. 2013); *see also Tanner v. Town of East Greenwich*, 880 A.2d 784, 797 (R.I. 2005) (appropriate inquiry is “whether the [public] notice provided by the [public body] fairly informed the public, under the totality of the circumstances, of the nature of the business to be conducted”).

This Office reviewed the January 27, 2020 City Council agenda and the video footage of the meeting. The pertinent agenda item for this meeting was entitled “Ensuring That Any Relocation or Replacement of the ‘John R. Dionne Track and Field’ Will Remain So Designated. - Gendron, Brien, Cournoyer, Ward & Sierra.” In discussing this agenda item, Councilman Kithes argued

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have no occasion to review the wording or sufficiency of this agenda item, but rather focus our inquiry on whether a different subject pertaining to CVS was discussed without proper notice.

<sup>2</sup> The City Council also asserts the importance of allowing robust “parliamentary debate” and invokes the “speech and debate clause” of the Constitution, but no argument was presented concerning how this Clause may be applicable to the alleged OMA violation. Since this argument has not been developed, we decline to further examine it.

against adoption of the resolution, stating that although Mr. Dionne had made substantial contributions to the Woonsocket community in the past, he was not deserving of a continuing tribute due to recent personal conduct. He further stated that “there are plenty of other, better people to honor” in naming the track facility.

Councilman Cournoyer’s comments, which are the subject of the instant Complaint, were made in response to Councilman Kithes’ comments. Councilman Cournoyer stated that Councilman Kithes asserts “false information as if it were fact” and then presented a series of examples in support of this claim. As one example in a litany of statements Councilman Kithes purportedly previously made that Councilman Cournoyer contended were incorrect, Councilman Cournoyer stated, “CVS pays between 1 and 2 million in taxes, false.” Councilman Cournoyer also provided other examples of alleged prior false statements that Councilman Kithes had made relating to other topics. There was no mention of any legislation related to CVS, and no other reference to CVS during the meeting. Our review of the meeting video shows that Councilman Cournoyer’s comments came in the context of debating the resolution and rebutting comments that Councilman Kithes had made about Mr. Dionne in connection with the resolution.

Based on this record, there is no evidence to suggest that any business pertaining to CVS or related legislation was before the City Council at this meeting or that the City Council or any member thereof discussed business pertaining to “CVS and legislation relating to it” without proper notice. The brief, passing reference to CVS was part of a response to Councilman Kithes’ prior statements, and was part of a larger discussion relating to an item that was noticed on the agenda, namely the designation of the “John R. Dionne Track and Field facility.” In the particular facts of this case, we find no violation. Our finding is limited to the sole issue of whether the City Council violated the notice provisions of the OMA; we express no opinion regarding the substantive issues discussed by the City Council in connection with the subject agenda item.

Conclusion

Although the Office of Attorney General has found no violation in this matter, nothing in the OMA precludes an individual from pursuing an OMA complaint in the Superior Court. The Complainant may do so within ninety (90) days from the date of the Attorney General’s closing of the complaint or within one hundred eighty (180) days of the alleged violation, whichever occurs later. R.I. Gen. Laws § 42-46-8. Please be advised that we are closing our file as of the date of this letter.

We thank you for your interest in keeping government open and accountable to the public.

Sincerely,

PETER F. NERONHA  
ATTORNEY GENERAL

By: /s/ Adam D. Roach  
Adam D. Roach  
Special Assistant Attorney General