



STATE OF RHODE ISLAND
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Peter F. Neronha
Attorney General

VIA EMAIL ONLY

July 17, 2020
OM 20-37

Mr. Richard Langseth

John C. Revens, Jr., Esquire
Legal Counsel, Warwick Sewer Authority

RE: Langseth v. Warwick Sewer Authority

Dear Mr. Langseth and Attorney Revens:

We have completed an investigation into the Open Meetings Act (“OMA”) complaint filed by Mr. Richard Langseth (“Complainant”) against the Warwick Sewer Authority (“Authority”). For the reasons set forth herein, we find that the Authority violated the OMA but there is no need for injunctive relief and no evidence of a willful or knowing violation.

Background

The Complainant contends that the Authority violated the OMA when it failed to post meeting minutes on the Secretary of State’s website since March 28, 2019.

The Authority submitted a response through counsel, John C. Revens, Jr., Esquire, which included an affidavit from its Executive Director, Earl W. Bond. The Authority acknowledges that it did not file meeting minutes with the Secretary of State after March 28, 2019 because “[i]n or around April – May 2019, the Authority’s longtime clerk...retired from her position” and the “successor clerk did not realize that it was his incumbent duty and responsibility to post said meeting minutes to the Secretary of State’s website.” The Authority indicated that it has taken steps to ensure these oversights do not occur in the future and that several Authority staff have registered to attend the Office of Attorney General Open Government Summit to receive training on the OMA’s requirements.¹

¹ We note that the Authority did not raise a statute of limitations defense to the allegations in the Complaint, nor did it state that the minutes for the subject meetings were approved more than 180

The Authority also stated that, “[u]pon receipt of Mr. Richard Langseth’s complaint, the Authority has since posted to the Secretary of State’s website the approved meeting minutes from all meetings dated from March 28, 2019 up and until before the date of Mr. Richard Langseth’s complaint.” Based on this Office’s independent search, the Authority posted minutes for twenty-three (23) of its meetings from March 28, 2019 through May 26, 2020 on either June 17, 2020 or June 29, 2020, shortly after the Complainant filed his Complaint with this Office.

The Complainant did not submit a 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 provides that:

“All public bodies shall keep official and/or approved minutes of all meetings of the body and shall file a copy of the minutes of all open meetings with the secretary of state for inspection by the public within thirty-five days of the meeting[.]” R.I. Gen. Laws § 42-46-7(d).

The Authority concedes that it did not timely file meeting minutes for its meetings since March 28, 2019. As such, the Authority violated the OMA.

Conclusion

The OMA provides that the Office of the Attorney General may institute an action in Superior Court for violations of the OMA on behalf of a complainant or the public interest. *See* R.I. Gen. Laws § 42-46-8(a), (e). The Superior Court may issue injunctive relief and declare null and void any actions of the public body found to be in violation of the OMA. *See* R.I. Gen. Laws § 42-46-8(d). Additionally, the Superior Court may impose fines up to \$5,000 against a public body found to have committed a willful or knowing violation of the OMA. *Id.*

Injunctive relief is not appropriate here because the meeting minutes have already been posted on the Secretary of State’s website. Nor do we find sufficient evidence of a willful or knowing violation of the OMA. We observe that there are no recent similar violations found against the Authority. We also note the Authority’s representation that it has taken measures to ensure that this issue does not repeat and will provide training to its staff, including attending a training conducted by this Office, in order to avoid future similar violations. Additionally, we note that the relief requested by Complainant was that this Office “advise the Sewer Authority on the

days before the Complaint was submitted. *See* R.I. Gen. Laws § 42-46-8. As such, we do not need to examine this issue.

importance of filing meeting minutes under the Open Meetings statutes and regulations.” This finding serves as notice that the conduct discussed herein violates the OMA and may serve as evidence of a willful or a knowing violation in any similar future situation.

Although the Office of the Attorney General will not file suit in this matter, please be advised that nothing within the OMA prohibits an individual from instituting an action for injunctive or declaratory relief in Superior Court. *See* R.I. Gen. Laws § 42-46-8(c). The OMA allows the Complainant to file a complaint 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. *See id.* Please be advised that we are closing this Complaint 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/ Kayla E. O’Rourke
Kayla E. O’Rourke
Special Assistant Attorney General