



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 21, 2024

PUBLIC ACCESS OPINION 24-007
(Request for Review 2024 PAC 80807)

OPEN MEETINGS ACT:
Attendance by Means Other Than Physical
Presence Because of Employment Purposes;
Taking Final Action on Matter Not on
Meeting Agenda

Mr. Michael Harmon
215 West Main Street
Princeville, Illinois 61559

The Honorable Jeff Troutman
Village President
Village of Princeville
206 North Walnut
P.O. Box 200
Princeville, Illinois 61559

Dear Mr. Harmon and Mr. Troutman:

This binding opinion is issued by the Attorney General pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2022)). For the reasons discussed below, this office concludes that the Village of Princeville (Village) Board of Trustees (Board) did not violate section 7(a) of OMA¹ by allowing a Board member to attend its February 5, 2024, March 5, 2024, and March 19, 2024, regular meetings by means other than his physical presence. In connection with the March 5, 2024, meeting, this office also concludes that the Board violated

¹ 5 ILCS 120/7(a) (West 2022), as amended by Public Act 103-311, effective July 28, 2023.

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section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2022)) by failing to provide the public with advance notice of the Board's final action authorizing the purchase of a vehicle.

BACKGROUND

On March 28, 2024, Mr. Michael Harmon submitted a Request for Review alleging that the Board improperly took final action to authorize the purchase of a truck at its March 5, 2024, regular meeting without including that purchase as an item on the meeting agenda.² Mr. Harmon also alleged that the Board continuously and improperly allowed Village President Jeff Troutman to attend Board meetings after he "purposefully took a job that requires him to be out of town. This job is not inflicted upon him, he chose it. * * *. Additionally, even when travelling for work, his work ends some 2-3 hours before the meetings and the location of his work is typically within an [hour's] drive of the meeting location so I would also argue this is a commutable distance."³ This office construed Mr. Harmon's allegations as asserting violations of sections 2.02(c) and 7(a) of OMA.

On April 1, 2024, the Public Access Bureau sent a copy of the Request for Review to Mr. Troutman, in his capacity as the head of the Board. The Public Access Bureau also sent Mr. Troutman a letter⁴ requesting copies of the Board's March 5, 2024, meeting agenda and any available recordings, as well as copies of the minutes from the Board's four meetings (February 5, 2024, February 20, 2024, March 5, 2024, and March 19, 2024) that occurred within 60 days of the submission of Mr. Harmon's Request for Review.⁵ The Public Access Bureau also asked the Board to provide a detailed written response to the allegations that the Board violated OMA (1) by authorizing the purchase of a truck without providing advance notice on its March 5, 2024, meeting agenda, and (2) by improperly allowing Mr. Troutman to attend its four

²Letter from Michael Harmon to Public Access Counselor, Office of the Attorney General (undated, transmitted by e-mail March 28, 2024), at [1].

³Letter from Michael Harmon to Public Access Counselor, Office of the Attorney General (undated, transmitted by e-mail March 28, 2024), at [1-2].

⁴Letter from Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to The Honorable Jeff Troutman, Village President, Village of Princeville (April 1, 2024), at 2.

⁵Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2022)) generally requires a Request for Review to be filed "not later 60 days after the alleged OMA violation[.]" but provides an exception "[i]f facts concerning the violation are not discovered within the 60-day period, but are discovered at a later date, not exceeding 2 years after the alleged violation, by a person utilizing reasonable diligence[.]" Mr. Harmon submitted his Request for Review on March 28, 2024. Because there is no indication that he could not have discovered any alleged violations more than 60 days before that date despite utilizing reasonable diligence, the Public Access Counselor's review was limited to Board meetings that occurred on or after January 28, 2024.

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most recent meetings remotely.⁶ On April 24, 2024, counsel for the Board, Mr. Scott A. Brunton, provided this office with the requested materials and a written response.⁷

On April 26, 2024, the Public Access Bureau forwarded a copy of the Board's written response to Mr. Harmon and notified him of his opportunity to reply.⁸ On that same date, Mr. Harmon submitted a reply.⁹ On May 23, 2024, the Public Access Bureau extended the time in which to issue a binding opinion by 21 business days, to June 26, 2024, pursuant to section 3.5(e) of OMA.¹⁰

ANALYSIS

It is "the public policy of this State that its citizens shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way." 5 ILCS 120/1 (West 2022). "The Open Meetings Act provides that public agencies exist to aid in the conduct of the people's business and that the intent of the Act is to assure that agency actions be taken openly and that their deliberations be conducted openly." *Gosnell v. Hogan*, 179 Ill. App. 3d 161, 171 (1989).

Final Action

Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2022)) provides, in relevant part, that "[a]n 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." Section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2022)) further provides that "[a]ny agenda required under this Section shall set forth the **general subject matter of any resolution or ordinance that will be the subject of final action at the meeting.**" (Emphasis added.)

⁶Letter from Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to The Honorable Jeff Troutman, Village President, Village of Princeville (April 1, 2024), at 2.

⁷Letter from Scott A. Brunton, Miller, Hall & Triggs, LLC, to Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 24, 2024).

⁸Letter from Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Michael Harmon (April 26, 2024).

⁹E-mail from Michael Harmon to [Benjamin J.] Silver, [Assistant Attorney, Public Access Bureau, Office of the Attorney General] (April 26, 2024).

¹⁰Letter from Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Michael Harmon, The Honorable Jeff Troutman, Village President, Village of Princeville, and Scott A. Brunton, Miller, Hall & Triggs, LLC (May 23, 2024).

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The agenda of the Board's March 5, 2024, meeting included the agenda item "Report from the Superintendent of Public Works[.]"¹¹ The meeting minutes show that during the report, the Superintendent of Public Works stated that he had found a used truck at a dealership which the Village could purchase with Tax Increment Financing funds.¹² The Board then approved a motion to purchase that truck "for around \$35,000."¹³ In its response to this office, the Board acknowledged that the "action for the truck purchase is not listed * * * under '17. Report from the Superintendent of Public Works' or elsewhere on the meeting agenda."¹⁴ The Board "concede[d] that this action to approve the purchase of a truck * * * was not properly taken in compliance with the Open Meetings Act at the March 5th Village Board meeting, and therefore this action was invalid."¹⁵ Accordingly, it is undisputed that the Board violated section 2.02(c) of OMA.

The Board provided this office with copies of the agenda and minutes of its April 16, 2024, meeting. The agenda stated that the Board would "[c]onsider and vote to Approve Purchase of Used Truck from Yemm Chevrolet, for Public Works Department, for \$34,906.00."¹⁶ The minutes show that the Board re-voted and approved the truck purchase during the April 16, 2024, meeting.¹⁷

The April 16, 2024, meeting agenda set forth the general subject matter as well as specific details of the truck purchase. Because the Board provided adequate notice of that final action on the agenda for its April 16, 2024, meeting and voted to approve the purchase during the meeting, the Board remedied its failure to provide sufficient advance notice of the truck purchase on the March 5, 2024, meeting agenda.

¹¹Village of Princeville Board, Agenda Item 17, Report from the Superintendent of Public Works (March 5, 2024).

¹²Village of Princeville Board, Regular Meeting, March 5, 2024, Minutes 4.

¹³Village of Princeville Board, Regular Meeting, March 5, 2024, Minutes 4.

¹⁴Letter from Scott A. Brunton, Miller, Hall & Triggs, LLC, to Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 24, 2024), at 1.

¹⁵Letter from Scott A. Brunton, Miller, Hall & Triggs, LLC, to Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 24, 2024), at 1.

¹⁶Village of Princeville Board, Agenda Item 12 (April 16, 2024).

¹⁷Village of Princeville Board, Regular Meeting, April 16, 2024, Minutes 3.

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Remote Attendance for Employment Purposes

Section 7(a) of OMA provides:

If a quorum of the members of the public body is physically present as required by Section 2.01, a majority of the public body may allow a member of that body to attend the meeting by other means if the member is prevented from physically attending because of: (i) personal illness or disability; (ii) **employment purposes** or the business of the public body; (iii) a family or other emergency; or (iv) unexpected childcare obligations. "Other means" is by video or audio conference. (Emphasis added.)

Section 7(c) of OMA¹⁸ provides "[a] majority of the public body may allow a member to attend a meeting by other means only in accordance with and to the extent allowed by rules adopted by the public body." A public body may permit remote attendance only for the four reasons enumerated in section 7(a), or its rules may be more restrictive. 5 ILCS 120/7(c) (West 2022), as amended by Public Act 103-311, effective July 28, 2023. The Board's rules for electronic participation in Board meetings authorize members to attend remotely "because of conflicting obligations to the Board member's employer[.]"¹⁹

As described above, Mr. Harmon argued that OMA did not authorize Mr. Troutman to attend meetings remotely because he knowingly took a job that required him to work out of town and because he often worked close enough to Princeville to commute to meetings. The Board's response to this office acknowledged that Mr. Troutman attended its February 5, 2024, March 5, 2024, and March 19, 2024, meetings by video conference, but argued that his work obligations met the definition of "employment purposes" under section 7(a)(ii) of OMA.²⁰ The Board explained:

Village President Troutman is employed by the United States Postal Service at the Dunlap, Illinois, post office as a rural postal carrier. The Village of Dunlap is located approximately nine (9) miles to the southeast of the Village of Princeville via Illinois Route 91. However, Village President Troutman has been assigned

¹⁸5 ILCS 120/7(c) (West 2022), as amended by Public Act 103-311, effective July 28, 2023.

¹⁹Princeville Code of Ordinances § 2.08.140 A., 2., b. (added June 7, 2021).

²⁰Letter from Scott A. Brunton, Miller, Hall & Triggs, LLC, to Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 24, 2024), at 2.

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to be [a] rural carrier postal instructor during the week for several weeks of the month at locations in Bloomington, Illinois, and occasionally in the Chicago and collar county region of Illinois. On these occasions, Village President Troutman stays in a hotel throughout the week, returning home on the weekends. This work schedule does not prevent Village President Troutman from attending all Village Board meetings remotely, but does frequently prevent Village President Troutman from attending Village Board meetings in person. This work schedule was the reason that Village President Troutman was unable to attend in person the three Village Board meetings [on February 5, 2024, February 19, 2024, and March 19, 2024].^[21]

The Board argued that section 7 of OMA does not limit the number of times a member may attend meetings remotely, and contended that the exception for "employment purposes" in section 7(a)(ii) applies when a member is unable to physically attend a meeting "due to travel requirements for work."²² Additionally, the Board argued that it would be "unreasonable to require a member of a public body to go to significant lengths to secure travel arrangements" and described the potential toll that commutes between a travel worksite and meetings could have on the member's job performance.²³ The Board contended that "the member of the public body who is away from home for employment-related purposes in cooperation with other members of the public body are given discretion to determine what comprises 'employment purposes' within the context of" section 7 of OMA, and that the Board exercised its discretion to determine that the requests to attend the meetings in questions remotely were reasonable.²⁴

In reply to that answer, Mr. Harmon reiterated his belief that it was Mr. Troutman's choice to pursue a job with extensive travel requirements and asserted that "the intent of subsection 7 is to allow for limited exceptions to a person's work schedule such as occasional travel for work."²⁵ Mr. Harmon further argued that it would be absurd to interpret the exception

²¹Letter from Scott A. Brunton, Miller, Hall & Triggs, LLC, to Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 24, 2024), at 2.

²²Letter from Scott A. Brunton, Miller, Hall & Triggs, LLC, to Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 24, 2024), at 2-3.

²³Letter from Scott A. Brunton, Miller, Hall & Triggs, LLC, to Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 24, 2024), at 3.

²⁴Letter from Scott A. Brunton, Miller, Hall & Triggs, LLC, to Benjamin J. Silver, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 24, 2024), at 3.

²⁵E-mail from Michael Harmon to [Benjamin J.] Silver, [Assistant Attorney, Public Access Bureau, Office of the Attorney General] (April 26, 2024).

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to physical attendance for "employment purposes" in a manner that would enable a member of a public body to "take a job anywhere in the world and no longer be required to [physically] attend meetings[.]"²⁶

In construing a statute, the primary objective is to ascertain and give effect to the intent of the General Assembly. *Southern Illinoisan v. Illinois Dep't of Public Health*, 218 Ill. 2d 390, 415 (2006). "[T]he surest and most reliable indicator of" legislative intent "is the statutory language itself, given its plain and ordinary meaning." *Board of Education of Springfield School District No. 186 v. Attorney General of Illinois*, 2017 IL 120343, ¶ 24. "[T]he dictionary can be used to ascertain the ordinary and popular meaning of words." *Stein v. Chicago Park District*, 323 Ill. App. 3d 574, 577 (2001). Where the language of a statute is clear and unambiguous, a reviewing body "may not depart from the plain language by reading into the statute exceptions, limitations, or conditions that the legislature did not express." *Hayashi v. Illinois Department of Financial & Professional Regulation*, 2014 IL 116023, ¶ 16. "[L]ikewise, [a reviewing body] may not add provisions under the guise of interpretation." *Glynn v. Dep't of Corrections*, 2023 IL App (1st) 211657, ¶ 27.

OMA does not define "employment purposes," and no reviewing court decisions have analyzed the meaning of that term in section 7(a)(ii) of the Act. The Merriam-Webster Dictionary defines "employment" as "activity in which one engages or is employed" or "an instance of such activity."²⁷ "Employ" is defined as "OCCUPATION, JOB."²⁸ "Purpose" is defined as "a subject under discussion or an action in course of execution[.]"²⁹ Therefore, actions in the course of executing a person's job responsibilities fit the plain and ordinary meaning of "employment purposes" under section 7(a)(ii) of OMA. It follows that a public body member's conflicting obligation to his employer is an employment purpose.

Section 7(a)(ii) of OMA does not contain language limiting the nature or frequency of actions in the course of executing a person's job responsibilities that provide a basis for a majority of a public body to allow a member to attend a meeting remotely. By contrast, when the General Assembly added "unexpected childcare obligations" to section 7(a) as a

²⁶E-mail from Michael Harmon to [Benjamin J.] Silver, [Assistant Attorney, Public Access Bureau, Office of the Attorney General] (April 26, 2024).

²⁷Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/employment> (last visited May 10, 2024).

²⁸Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/employ> (last visited May 10, 2024).

²⁹Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/purpose> (last visited May 10, 2024).

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permissible reason for remote attendance, it adopted a floor amendment to include the word "unexpected," thus expressly limiting the circumstances in which childcare obligations permit remote attendance.³⁰ If the General Assembly intended to limit the use of "employment purposes" to a certain number of times or only to instances where a work assignment was involuntary or unanticipated, it would have done so expressly. It did not. Further, the plain language of section 7(a)(ii) does not condition remote attendance for "employment purposes" upon the member of the public body demonstrating that it would be unfeasible to commute to the meeting location.

This office cannot read into section 7(a) of OMA limitations on remote attendance that the General Assembly did not express. Mr. Harmon's assertion that it would be absurd not to do so is unavailing. Although "[i]t is always presumed that the legislature did not intend to cause absurd, inconvenient, or unjust results[.]"³¹ construing the term "employment purposes" in accordance with its plain language for purposes of section 7(a)(ii) of OMA would not authorize a member of a public body to "take a job anywhere in the world" or afford them unfettered discretion to attend a meeting remotely anytime a conflict with their job arises. Section 7(c) of OMA gives "[a] majority of the public body" the option to either permit or deny a member's request to attend a meeting remotely "only in accordance with and to the extent allowed by rules adopted by the public body. The rules must conform to the requirements and restrictions of" section 7 of OMA and, "may further limit the extent to which attendance by other means is allowed[.]" In other words, a member of a public body may attend a meeting remotely due to "employment purposes" only if employment purposes is an authorized reason pursuant to the public body's own rules, and a majority of the public body chooses to grant the member's request to attend remotely. Moreover, members of village boards are elected officials. If voters believe an elected official's job duties interfere with their ability to perform their public duties or that members of a village board excessively accommodate requests to attend meetings remotely due to employment purposes, they may hold them accountable in the next election.

Mr. Troutman's employment as a rural carrier postal instructor for the United States Postal Service frequently requires him to stay in hotels while spending the workweek in cities outside of Princeville. Under these circumstances, the Board reasonably could have determined Mr. Troutman was prevented from physically attending the Board's February 5, 2024, March 5, 2024, and March 19, 2024, regular meetings because of "employment purposes" within the meaning of that term in section 7(a)(ii) of OMA. These out-of-town work assignments also are a form of "conflicting obligations to the Board member's employer[]" that provide a permissible reason for remote attendance under the Board's rules. Accordingly, this

³⁰103rd Ill. Gen. Assem., House Bill 2447, House Amendment No. 2, 2023 Sess.

³¹*People v. Garcia*, 241 Ill. 2d 416, 421 (2011).

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office concludes that the Board did not violate section 7(a) of OMA by allowing Mr. Troutman to attend those meetings by video conference.

FINDINGS AND CONCLUSIONS

After full examination and giving due consideration to the arguments presented, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

1) On March 28, 2024, Mr. Michael Harmon submitted a Request for Review alleging that the Board improperly took final action to authorize the purchase of a truck at its March 5, 2024, regular meeting without including the purchase as an item on the agenda. He also alleged that the Board improperly allowed Mr. Troutman to repeatedly attend its meetings remotely for "employment purposes." It is undisputed that Mr. Harmon's Request for Review was timely filed and otherwise complies with the requirements of section 3.5(a) of OMA.

2) On April 1, 2024, the Public Access Bureau sent a copy of the Request for Review to the Board. The Public Access Bureau also sent the Board a letter requesting copies of the Board's March 5, 2024, meeting agenda, any available recordings, and copies of the minutes from the Board's four most recent meetings (February 5, 2024, February 20, 2024, March 5, 2024, and March 19, 2024), together with a detailed written answer to the allegations that the Board violated sections 2.02(c) and 7(a) of OMA.

3) On April 24, 2024, counsel for the Board provided this office with the requested materials, including a written answer.

4) On April 26, 2024, the Public Access Bureau forwarded a copy of the Board's written answer to Mr. Harmon and notified him of his opportunity to reply. On that same date, Mr. Harmon submitted a reply.

5) On May 23, 2024, the Public Access Bureau extended the time in which to issue a binding opinion by 21 business days pursuant to section 3.5(e) of OMA. Therefore, the Attorney General may properly issue a binding opinion with respect to this matter.

6) Section 2.02(c) of OMA provides that "[a]ny agenda required under this Section shall set forth the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting."

7) On March 5, 2024, the Board voted to approve the purchase of a truck, but the purchase was not listed on the agenda for that meeting. In its answer to this office, the Board conceded that this action was not in compliance with OMA. Accordingly, this office concludes that the Board violated section 2.02(c) of OMA by failing to provide advance notice of its vote to approve the purchase of the truck at the March 5, 2024, meeting.

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8) On April 16, 2024, the Board included the purchase of the truck on its meeting agenda for that date and re-voted to approve the purchase.

9) Because the Board provided sufficient notice of its final action to approve the purchase of the truck on the agenda for its April 16, 2024, meeting and re-voted on the matter at that meeting, no further action is required to remedy the Board's violation of section 2.02(c) of OMA.

10) Section 7(a) of OMA provides that "[i]f a quorum of the members of the public body is physically present as required by Section 2.01, a majority of the public body may allow a member of that body to attend the meeting by other means if the member is prevented from physically attending because of * * * (ii) employment purposes[.]" The Board's rules for electronic participation in remote meetings correspondingly permit the Board to permit remote attendance "because of conflicting obligations to the Board member's employer[.]"

11) The plain and ordinary meaning of "employment purposes" in section 7(a)(ii) of OMA includes actions in the course of executing a person's job responsibilities.

12) Mr. Troutman attended the Board's February 5, 2024, March 5, 2024, and March 19, 2024, regular meetings by means other than physical presence because his job obligations required him to stay at a hotels while working in cities outside of Princeville on those meeting dates.

13) Mr. Troutman's work-related travel constituted an action in the course of executing his job responsibilities and a conflicting obligation to his employer that prevented him from physically attending the Board's February 5, 2024, March 5, 2024, and March 19, 2024, regular meetings.

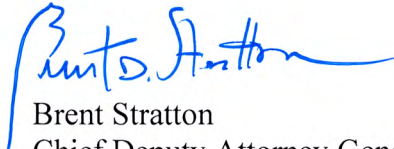
14) Accordingly, the Attorney General concludes that the Board did not violate section 7(a) of OMA by allowing Mr. Troutman to attend its February 5, 2024, March 5, 2024, and March 19, 2024, regular meetings remotely.

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This opinion shall be considered a final decision of an administrative agency for the purpose of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2022). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review in the Circuit Court of Cook County or Sangamon County within 35 days of the date of this decision, naming the Attorney General of Illinois and the Village of Princeville Board of Trustees or Mr. Michael Harmon as defendants. *See* 5 ILCS 120/7.5 (West 2022).

Very truly yours,

KWAME RAOUL
ATTORNEY GENERAL

By: 
Brent Stratton
Chief Deputy Attorney General

cc: Mr. Scott A. Brunton
Attorney for the Village of Princeville
Miller, Hall & Triggs, LLC
416 Main Street, Suite 1125
Peoria, Illinois 61602

CERTIFICATE OF SERVICE

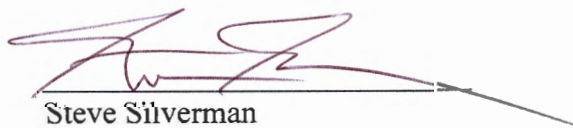
Steve Silverman, Bureau Chief, Public Access Bureau, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 24-007) upon:

Mr. Michael Harmon
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michaeljharmon@hotmail.com

The Honorable Jeff Troutman
Village President
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Mr. Scott A. Brunton
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by causing a true copy thereof to be sent electronically to the addresses as listed above and by causing to be mailed a true copy thereof in correctly addressed, prepaid envelopes to be deposited in the United States mail at Chicago, Illinois on June 21, 2024.


Steve Silverman

Bureau Chief

Steve Silverman
Bureau Chief
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