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1 message

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Wed, Nov 23, 2011 at 7:55 AM

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Lake Zurich trustees violated Open Meetings Act, prosecutors say
By Russell Lissau Daily Herald
Article updated: 11/23/2011 5:10 AM

[PHOTO] A recent complaint about the Lake Zurich village board concerned plans for the former Wicke's Furniture store on Rand Road. Paul Valade | Staff Photographer, 2008

Following a pair of investigations, Lake Zurich trustees and the town's mayor will undergo mandatory training about the state's Open Meetings Act, prosecutors confirmed Tuesday.

The session, set for 8 a.m. Dec. 3, was prompted by separate complaints to the Lake County state's attorney's office about how the board and administrators conduct business, Assistant State's Attorney Janelle Christensen said.

One investigation revealed a majority of board members twice broke the law last year by privately debating public business via email, the state's attorney's office said.

The second investigation revealed the wording of an ordinance was improperly changed by one of the village's attorneys after the board approved it in September, Christensen said.

While not an Open Meetings Act violation, the attorney's actions were "an improper act" that required the board to vote on the proposal again, which it did, Christensen said.

The Open Meetings Act requires government agencies to do their business in public. It includes rules for gatherings of public officials, the use of email and other means of electronic communication, taping of meetings and how the public should be notified of upcoming meetings.

Perhaps most notably, if the majority of a quorum of a board — in Lake Zurich's case, three or more of its six members — deliberate official business in private, the conversation breaks the law.

Violations are misdemeanors punishable by fines and jail time, but criminal prosecutions are rare. Training sessions like the one planned for the Lake Zurich board are more common.

The first investigation, completed this past May, revealed four trustees broke the law by discussing official village business in

email chains in April 2010 and September 2010. It stemmed from a complaint from Mayor Suzanne Branding, who made her allegations public this past March.

The four trustees targeted were Rich Sustich, Jonathan Sprawka, Jeff Halen and Tom Poynton. Some of them used private email addresses, rather than their official village email addresses, during these electronic conversations, prosecutors said.

Prosecutors also were concerned about "joint memorandums" created by the four trustees that summarized the board's business. In a letter admonishing the four trustees for their actions, Assistant State's Attorney Dan Jasica referred to the memos as "shadow minutes."

Although the trustees denied using email or any other form of gathering to prepare the memos, prosecutors doubted the denial particularly because they used private email addresses, Jasica wrote.

In admonishing the four trustees, Jasica said he believed the violation "was brought on by inattention and carelessness." But he also said criminal charges could be filed if email communications of board business continued.

On Tuesday, Poynton called Branding's complaint about the emails "a political stunt." Regardless, Poynton said he and the other trustees are abiding by the state's attorney's ruling.

"As far as I'm concerned, it's a dead issue," Poynton said.

Branding did not respond to interview requests. Attempts to reach Sustich, Sprawka and Halen also were unsuccessful.

The more recent investigation concerned a plan for a long-vacant retail building on Rand Road.

At a Sept. 6 meeting, the board unanimously approved a plan for an LA Fitness center to open where Wickes Furniture once stood.

Prior to the board's vote, Deer Park resident Marlene Smetana, who lives near the site, requested some of the building's windows be darkened so light from the fitness center wouldn't shine into her home, Village Administrator Bob Vitas said. The board adopted the plan but the ordinance didn't formally mandate window changes.

The next day, village attorney Carlos Arevalo inserted the word "required" into the ordinance to reflect the board's intent, Vitas said. Branding then signed the plan, Vitas said.

When Smetana found out about the unapproved wording change, she complained to the state's attorney's office, Christensen said.

Adding the word "required" to the ordinance didn't change the intent of the proposal, Vitas said.

"The reality is, it's done fairly commonly," he said. "The intention (of the board) was clear."

That didn't matter to prosecutors, who called the change "an

unauthorized act” that invalidated the vote. In response, the board voted on the issue again Nov. 7 and ratified the ordinance, Vitas said.

Because the wording change didn't involve the board, it's not an Open Meetings Act matter, Christensen said. Even so, Christensen said she set up the training session because both issues had come to her office.

“I think we have their attention,” she said. “And I think this training hopefully will be the final piece of the puzzle.”

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