



August 30, 2022

**VIA EMAIL**

Mayor Russell Kraly  
Village of Round Lake  
442 North Cedar Lake Road  
Round Lake, Illinois 60073

Trustee Charlie Foy  
Village of Round Lake  
442 North Cedar Lake Road  
Round Lake, Illinois 60073

Trustee Sanjay J. Patel  
Village of Round Lake  
442 North Cedar Lake Road  
Round Lake, Illinois 60073

Trustee Paul Law  
Village of Round Lake  
442 North Cedar Lake Road  
Round Lake, Illinois 60073

Trustee Patrick Duby  
Village of Round Lake  
442 North Cedar Lake Road  
Round Lake, Illinois 60073

Trustee Carolina Schottland  
Village of Round Lake  
442 North Cedar Lake Road  
Round Lake, Illinois 60073

Trustee Sergio Rodriguez  
Village of Round Lake  
442 North Cedar Lake Road  
Round Lake, Illinois 60073

Re: Violations of Illinois Open Meetings Act, 5 ILCS 120/2.01, 5 ILCS 120/2.06

Dear Mayor Kraly and the Board of Trustees:

As I mentioned previously, I represent Lino and Donna Cordoba; Dan Cordoba; Robert and Patricia Ross; Lane and Lisa Brown; Pedro and Magali Arteaga; and Chris Swanson, all of whom live adjacent to the landfill project proposed by CHDS, LLC and its principal, Daniel Powell.

On behalf of my clients, please be on notice that the Village violated Section 2.01 of the Illinois Open Meetings Act, 5 ILCS 120/2.01, on August 15, 2022 during both the Public Hearing scheduled for 6:45 p.m. and the Board and Committee of the Whole meetings scheduled at 7:00 p.m. As the Village knew from the prior meeting on August 1, 2022, there would be a large crowd in attendance at the August 15, 2022 meeting, and there was. By holding the meeting in the regular Board room, dozens if not hundreds of people who wanted to attend and participate in the meeting could not. Moreover, there were no adequate speakers to permit these individuals, who spilled into the hallway and down the staircase, to hear what was going on.

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Section 2.01 provides in pertinent part that “[a]ll meetings required by this Act to be public shall be held at specified times and places which are *convenient* and open to the public.” 5 ILCS 120/2.01 (emphasis added). In *Gerwin v. Livingston County Board*, 345 Ill. App.3d 352, 362-63 (4<sup>th</sup> Dist. 2003), the Appellate Court – in a case that also involved a public hearing regarding a landfill project – reinstated a claim under Section 2.01 where the Livingston County Board did not move its meeting from its traditional board room to a larger venue when it knew that large crowds would attend, holding:

[A] reasonable trier of fact could find that the boardroom was an inconvenient place for the June 13, 2002, meeting. That the board typically held its meetings in the boardroom does not end the inquiry; section 2.01 does not allow custom to trump public convenience. Plaintiffs have alleged that the board knew, at least a week before the June 13, 2002, meeting, that the boardroom would be too small for the numbers of citizens who wished to attend; that larger, alternative venues were available; and that [its chairman] resolutely refused to hold the meeting in a larger venue because he wanted to make attendance by the public inconvenient. Given those facts, along with the alleged preferential admission of Allied Waste employees, we find that plaintiffs have pleaded a violation of the Act.

*Gerwin*, 345 Ill. App.3d at 363. The Illinois Supreme Court denied leave to appeal. *See Gerwin v. Livingston County Board*, 208 Ill.2d 536 (Ill. 2003).

My clients have no intent on pressing the issue regarding what occurred on August 15. However, they will not be as forgiving for any future meetings that involve CHDS, LLC’s proposed landfill/ski hill project. On their behalf, we respectfully request that the Village take all appropriate action to ensure that the large crowds (almost all of whom oppose the project) who have an interest in the proposal be properly accommodated so as to comport with the Village’s obligation under Section 2.01 of the Open Meeting Act.

Separately, Section 2.06 of the Open Meetings Act requires “[a]ll public bodies [to] keep written minutes of all their meetings,” which shall be approved “within 30 days after that meeting or at the public body's second subsequent regular meeting, whichever is later.” 5 ILCS 120/2.06(a) and (b). To date, the minutes and audio recording of the June 28, 2022 meeting of the Plan Commission/Zoning Board of Appeals, during which Mr. Powell apparently gave sworn testimony, have not been approved or made public (which must occur within 10 days after approval). The next two meetings of the Plan Commission/Zoning Board of Appeals scheduled for July 26, 2022 and today have been canceled.

A skeptic might believe that these meetings were deliberately canceled to prevent public view and scrutiny of Mr. Powell's testimony – and, indeed, prevent members of the Board who were not in attendance at the June 28, 2022 meeting from viewing and listening to same before being requested to vote on Mr. Powell's landfill proposal. I am quite confident that deliberately withholding the approval of minutes and an audio recording to suppress the information in advance of a Board vote would constitute a violation of Section 2.06 of the Open Meetings Act.

Please advise when the minutes and audio recording of the June 28, 2022 meeting of the Plan Commission/Zoning Board of Appeals will be approved and made public. My clients have no desire to make another request under the Illinois Freedom of Information Act, but they will do what they believe is necessary under the law to ensure that the full record is made public. Even if there is no agenda item other than approval of the June 28, 2022 minutes, I suggest that the Plan Commission/Zoning Board of Appeals holds a special meeting this week simply for that purpose in order to ensure that the minutes and audio recording are available in advance of the September 6, 2022 Board and Committee of the Whole meetings. Thank you in advance for your prompt attention to this matter.

Very truly yours,



Kenneth J. Ashman