



STATE OF RHODE ISLAND
OFFICE OF THE ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903
(401) 274-4400 • www.riag.ri.gov

Peter F. Neronha
Attorney General

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VIA EMAIL ONLY

January 10, 2025
OM 25-01

Mr. Christopher Mannix

Thomas M. Dickinson, Esq.
Legal Counsel, Bonnet Shores Fire District Charter Committee

Re: Mannix v. Bonnet Shores Fire District Charter Committee

Dear Mr. Mannix and Attorney Dickinson:

We have completed an investigation into the Open Meetings Act (“OMA”) Complaint filed by Mr. Christopher Mannix (“Complainant”) against the Bonnet Shores Fire District Charter Committee (“Committee”)[1]. For the reasons set forth herein, we find that the Committee did not violate the OMA.

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Background and Arguments

The Complainant alleges that the Committee’s meeting minutes for its August 15, 2023 meeting “were filed more than 35 days after the ... meeting took place,” on October 13, 2023. Citing to specific past events, he argues that “three (3) members of [the] five (5) member [C]ommittee” have demonstrated a “knowledge of the OMA,” rendering the alleged violation “knowing and willing.” He consequently seeks “injunctive and punitive relief.” Included with his Complaint is a screenshot of the Secretary of State’s website, reflecting the date of the subject meeting and the date the minutes for that meeting were electronically posted.

Attorney Thomas M. Dickinson submitted a Response on behalf of the Committee. The Committee states that it is “solely advisory in nature” and thus not required to post its meeting minutes pursuant to R.I. Gen. Laws § 42-46-7(d). In support of this advisory status, the Committee references its origin, explaining that it came about “as a result of a Consent Judgment [hereinafter, the “Judgment”] entered in Washington County Superior Court on May 26, 2022” in *Patterson, et al. v. Bonnet Shores Fire District*. [2] The Committee argues that this Judgment by its plain terms established the “purely advisory” nature of the Committee, and that its authority is solely limited to proposing amendments to the Fire District Charter, which are then subject to approval “first by the General Assembly and then by the voters at an Annual or Special Meeting of the Fire District.” Appended to the Complainant’s Response is a copy of the Judgment.

The Complainant did not submit a Rebuttal.

Applicable Law and 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; *provided that this subsection shall not apply to public bodies whose responsibilities are solely advisory in nature.*” R.I. Gen. Laws § 42-46-7(d) (emphasis added).

The only allegation at issue is an alleged failure to timely file meeting minutes. As such, if the Committee is strictly advisory in nature, it is not obligated to file meeting minutes under the OMA.

This Office has previously noted that Merriam-Webster Dictionary defines “advisory” as “having or consisting in the power to make recommendations but not to take action enforcing them.” See *Kelley v. Scituate Human Resource Policy Committee* OM 21-01 (finding that entity was “solely advisory in nature” where the “record indicates that although the Committee reviews and makes reports providing recommendations to the Town Council, the Town Council is vested with the final decision-making authority”).

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Public bodies whose authority is restricted to merely advising entities vested with final authority are not required to file meeting minutes. For example, this Office has held that a Community Board that provided “recommendations on a wide range of issues” to a municipal executive was an advisory public body because the Board’s recommendations had to “first go through the Mayor and then, in turn, through the Town Council” before final adoption. See *Farinelli v. Pawtucket Mayor’s Community Board*, OM 22-12; see also *Solas v. South Kingstown School Committee, et al.*, OM 22-28.

Here, much like the entity in *Farinelli*, these undisputed facts demonstrate that the Committee makes recommendations and is unable to “take action enforcing them.” See *Kelley v. Scituate Human Resource Policy Committee* OM 21-01. The Judgment referenced by the Committee, which is the instrument of its creation,

expressly states that the Council “shall appoint” the Committee and that the Committee will “propose amendments to the Fire District Charter ... [which will] be presented for approval first to the Rhode Island General Assembly, and then to the voters at an Annual or Special Meeting.” The Judgment vests the Committee with no additional responsibilities or authority, and the Complainant has not provided any evidence or argument indicating otherwise, nor does he challenge the contention that the Committee is advisory in nature. On this record, we find no OMA violation due to the advisory nature of the Committee’s charge.^[3]

We note that the Committee’s practice of posting minutes on the Secretary of State website, despite not being statutorily required to do so, is “consistent with the spirit of the OMA.” We encourage other advisory public bodies to do the same. *See Solas v. Council on Elementary and Secondary Education*, 22-19.

Conclusion

Although the Attorney General has found no violation as to the Committee and will not file suit in this matter, nothing in the OMA precludes an individual from pursuing a complaint in the Superior Court as specified in the OMA. R.I. Gen. Laws § 42-46-8(c). The Complainant may pursue OMA complaints within “ninety (90) days of the attorney general’s closing of the complaint or within one hundred eighty (180) days of the alleged violation, whichever occurs later.” *Id.* Please be advised that we are closing these files 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: Adam D. Roach

Adam D. Roach
Special Assistant Attorney General
OMA

^[1] The Complainant notes that this entity “is *not to be confused* with the BSFD Council [hereinafter, the ‘Council’].” (Emphasis in original).

^[2] Case No. WC-2020-0130.

^[3] The Committee additionally suggests that even assuming the thirty-five (35) day deadline set forth in R.I. Gen. Laws § 42-46-7(d) applied to the Committee, this provision of the statute is “directory in nature and not mandatory,” citing the United States Supreme Court decision in *McIntosh v. United States*, 601 U.S. 330, 337 (2024). We find this contention highly doubtful and the case on which it is based appears to be inapposite, but because we find that the Committee is advisory in nature and thus not required to post meeting minutes, we have no occasion to more fully address this argument.