



COMMONWEALTH OF KENTUCKY  
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**23-OMD-053**

March 10, 2023

In re: Deena Thomas/City of Muldraugh

**Summary:** The City of Muldraugh (“the City”) violated the Open Meetings Act (“the Act”) when it failed to respond to a complaint within three business days after receiving it. The City also violated the Act by holding a series of less-than-quorum meetings for the purpose of avoiding the requirements of KRS 61.810(1). However, the City did not violate the notice requirements of the Act when it posted notice of its special meeting on social media the same day as that meeting because the Act does not require notice of a special meeting to be posted on a public agency’s social media accounts.

***Open Meetings Decision***

On January 24, 2023, in a written complaint submitted to both the mayor and city clerk, Deena Thomas (“Appellant”) alleged that the City had violated the Act when it posted notice of its January 2, 2023, special meeting on social media less than 24 hours before the meeting. She also alleged that the City conducted an “illegal meeting” on December 29, 2022, when four councilmembers took the oath of office and discussed calling the special meeting for January 2, 2023. Having received no response to her complaint by February 24, 2023, the Appellant initiated this appeal.

Upon receiving a complaint alleging a violation of the Act, a “public agency shall determine within three (3) [business] days . . . after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision.” KRS 61.846(1). Here, the City acknowledged it received the complaint, but did not respond to it within three business days of receipt. Thus, the City violated the Act when it failed to timely respond to the Appellant’s complaint.

As for the substance of her complaint, the Appellant alleges the City failed to give proper notice for its January 2, 2023, special meeting because it posted notice of the meeting on its social media account less than 24 hours before the meeting. Under KRS 61.823(4)(a), “written notice shall be delivered . . . to every member of the public agency as well as each media organization which has filed a written request . . . at least twenty-four (24) hours before the special meeting.” Moreover, “[a]s soon as possible, written notice shall also be posted in a conspicuous place in the building where the special meeting will take place and in a conspicuous place in the building which houses the headquarters of the agency . . . at least twenty-four (24) hours before the special meeting.” KRS 61.823(4)(c). The Act does not require public agencies to post notices of special meetings on their websites or social media accounts. *See, e.g.*, 20-OMD-177; 20-OMD-035. The City posted notice of the special meeting in two conspicuous locations at Muldraugh city hall at noon on January 1, 2023. Thus, the City complied with KRS 61.823(4)(c) by posting notice of the special meeting in a conspicuous place in the building where the special meeting occurred more than 24 hours before it began.

Finally, the Appellant alleged the City violated the Act when four councilmembers met on December 29, 2022, for the purpose of taking the oath of office and discussing whether to call the special meeting on January 2, 2023. The City explains that one of the councilmembers and her husband, also a city councilmember, could not attend the “swearing in ceremony” previously scheduled to occur in Meade County. While present in city hall on December 29, 2022, both councilmembers took the oath of office. Two other councilmembers learned of this and also wanted to take the oath of office that day. However, the City acknowledged that if all four councilmembers were present in city hall and took the oath at the same time, a quorum would be present. Accordingly, the City scheduled the oaths to be taken in two sets of two such that the four councilmembers would not all be present in city hall at the same time.<sup>1</sup> After the two sets of councilmembers concluded their respective oaths, they each signed a petition to hold the special meeting on January 2, 2023, but none of them discussed the business that was to occur at that meeting.<sup>2</sup>

This Office has previously held that the official act of taking the oath of office is public business. *See, e.g.*, 17-OMD-145; 16-OMD-214. The City implicitly acknowledges this, because it purposefully held two separate ceremonies to avoid a quorum of the city council being present at the same time. “Any series of less than

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<sup>1</sup> The City claims it took these steps to avoid “a violation” of the Act. It is true that if four councilmembers were present at the same time and conducted the public business of taking the oath in a meeting that was not regularly scheduled, such a meeting would be subject to the notice requirements of special meetings under KRS 61.823. But a violation of the Act stems from an agency’s failure to abide by the Act’s requirements. An agency’s attempt to avoid the Act’s requirements to avoid a potential violation is itself a violation of the Act. KRS 61.810(2).

<sup>2</sup> The purpose for the special meeting was to discuss the mayor’s resignation and filling the vacancy left by his resignation.

quorum meetings, where the members attending one (1) or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held *for the purpose of avoiding the requirements of* [KRS 61.810(1)], shall be subject to the requirements of” KRS 61.810(1). KRS 61.810(2) (emphasis added). Because the City recognized the presence of four councilmembers taking the oath of office would constitute a meeting subject to the Act, it intentionally conducted the ceremony in two parts to avoid the Act’s requirements. As such, the City violated the Act on December 29, 2022 by holding a series of less-than-quorum meetings for the purpose of avoiding the Act’s requirements.

However, the councilmembers’ actions in signing a petition to call a special meeting on January 2, 2023, did not violate the Act. This Office has previously held that discussions involving when to schedule a special meeting, and the topics to place on the agenda, do not constitute a discussion about public business, so long as the discussions remain solely about those administrative topics. *See, e.g.*, 13-OMD-086. Clearly, discussions limited to scheduling a meeting so an agency can comply with the Act does not demonstrate an intent to avoid the Act’s requirements. As such, the City did not violate the Act when the councilmembers signed a petition to hold a special meeting on January 2, 2023.

In sum, the City violated the Act when it failed to respond to the Appellant’s complaint within three business days of receiving it, and when the City held a series of less-than-quorum meetings on December 29, 2022, for the purpose of swearing in councilmembers in a manner that would avoid the Act’s requirements. However, the City did not violate the Act on December 29, 2022, when the councilmembers’ discussions were limited to scheduling a special meeting, and when it posted in a conspicuously place at city hall notice of the January 2, 2023 special meeting at least 24 hours before that meeting.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.846(4)(a). The Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint e-mailed to [OAGAppeals@ky.gov](mailto:OAGAppeals@ky.gov).

**Daniel Cameron**  
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s/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
Assistant Attorney General

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Distributed to:

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