

January 29, 2016

VIA E-MAIL

Mr. Chris Fusco
Staff Reporter
Chicago Sun-Times
Email: cfusco@suntimes.com

RE: 16-FOIA-018 All Executive Session Minutes; Audio / Video 1/1/2013 - 6/1/2014

Dear Mr. Fusco:

We are in receipt of your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* (“FOIA”).

I. Background

On January 25, 2016, we received your request for:

1. Copies of audio and / or video recordings of all "executive sessions" held by the Metra board and / or Metra board committees between January 1, 2013 – June 1, 2014; and
2. Copies of all executive session minutes for all Metra board and committee meetings held between January 1, 2013 – June 1, 2014; and

(“Request”). Your Request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, Metra is providing you with copies of the closed session meetings authorized for release under ordinance MET 14-18 on December 12, 2014. These include January 17, February 15, April 19, May 17 and June 21, 2013. In our October 30, 2015 response these minutes were unintentionally withheld, please accept our apologies.

III. Partial Denial

With respect to the verbatim audio recordings, the Board has not authorized the release of any verbatim recordings. Section 7(1)(a) of FOIA exempts “[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.” Section 2.06(e) of the Open Meetings Act (“OMA”) states in part:

Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection[.] 5 ILCS 120/2.06(e)

With respect to the remaining executive session minutes, section 7(1)(l) of FOIA exempts “[m]inutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.” 5 ILCS 140/7. Further, section 2.06(f) of the OMA states “[m]inutes of meetings closed to the public shall be

available only after the public body determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential.” While the Board continues its semi-annual review process, the last ordinance authorizing the release of additional minutes was MET 14-18.

As such, attorney Thomas Stuebner has determined that the withholding of these records is proper under FOIA and the OMA.

IV. Right of Review

You have the right to have the partial denial of your Request reviewed by the Public Access Counselor (“PAC”) of the Illinois Attorney General’s Office. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this partial denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this partial denial letter when filing a Request for Review with the PAC.

You also have the right to seek judicial review of your partial denial by filing a lawsuit in the circuit court. 5 ILCS 140/11.

If I can be of further assistance to you, please do not hesitate to contact me.

Sincerely,



Kathleen E. Haton
Freedom of Information Officer
FOIA@metrarr.com

Attachments