

SUPREME COURT OF OHIO

State ex rel. Ames v. Portage Cty. Bd. of Commrs.

State ex rel. Ames v. Portage Cty. Bd. of Commrs. (Slip Opinion), 2021 Ohio 2374 (Ohio 2021) · No. No. 2020-1120 · Decided July 14, 2021

SUMMARY

The Ohio Supreme Court held that a solid-waste-management district (SWMD) created under R.C. 343.01 and 3734.52 is a valid entity, and a county board of commissioners may hold separate public meetings for SWMD business. The court reversed summary judgment on the issue of whether the board's use of a consent agenda without publicly identifying the specific resolutions being voted on constructively closed the meeting in violation of the Open Meetings Act (R.C. 121.22). The court also held that the board violated the Public Records Act (R.C. 149.43) by failing to include an exhibit referenced in the approved minutes, as full and accurate minutes must incorporate all referenced documents. The case was remanded for further proceedings on the Open Meetings Act claim and potential statutory damages.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; O'Connor; Kennedy; Fischer; DeWine; Donnelly; Stewart; Brunner
JURISDICTION	Ohio
DECIDED	July 14, 2021
DOCKET	No. 2020-1120
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Court of Appeals for Portage County, No. 2019-P-0125, 2020-Ohio-4359
STANDARD OF REVIEW	De novo review of summary judgment in a mandamus action.
PRECEDENTIAL VALUE	Published
PARTIES	Brian M. Ames v. Portage County Board of Commissioners; Portage County Solid Waste Management District Board of Commissioners; Portage County Court of Common Pleas

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QUESTIONS PRESENTED

1. Whether the SWMD is a valid entity under Ohio law.
2. Whether the board's use of a consent agenda at SWMD meetings violated the Open Meetings Act by constructively closing the meeting.
3. Whether the board failed to prepare and maintain full and accurate minutes of the SWMD meetings as required by the Open Meetings Act and Public Records Act.
4. Whether the court of common pleas is a proper respondent in a mandamus action under the Open Meetings Act.

HOLDINGS

1. The SWMD is a valid entity created under R.C. 343.01 and 3734.52, and the board's procedure of convening separate meetings for SWMD business does not violate the Open Meetings Act.
2. The board's use of a consent agenda without informing the public of the specific resolutions being voted on raises a question of fact sufficient to survive summary judgment as to whether it constructively closes the public meeting in violation of the Open Meetings Act.
3. The board failed to produce full and accurate minutes of the September 17 SWMD meeting because Exhibit A, which was incorporated by reference, was not attached to the approved minutes or produced in response to a public-records request.
4. A court of common pleas is not a proper respondent in a mandamus action because a court is not sui juris and cannot be sued in its own right absent express statutory authority.

KEY QUOTATIONS

“the board's failure to inform the public of the resolutions being voted on at an SWMD public meeting as part of a consent agenda raises the question whether the use of a consent agenda in this manner constructively closes the public meeting and is an impermissible end run around the Open Meetings Act.” (§ 19)

“The board is required to keep full and accurate minutes of its meetings under the Open Meetings Act and to permit public access to those minutes under the Public Records Act.” (§ 23)

“There is nothing in the Open Meetings Act or in R.C. 343.01 that prohibits the board from holding a public meeting of the SWMD separate from the county board meeting.” (§ 15)

FACTUAL BACKGROUND

The Portage County Board of Commissioners created the Portage County Solid Waste Management District (SWMD) by resolution in 1988. The board holds separate public meetings for SWMD business and non-SWMD

county business, using a consent agenda procedure. In September 2019, the board held SWMD meetings where it adopted consent agendas containing multiple resolutions without publicly stating the specific resolutions being voted on. Ames requested minutes and discovered that Exhibit A, referenced in the minutes of the September 17 SWMD meeting, was not attached to the approved minutes or produced in response to his public-records request.

PROCEDURAL HISTORY

The court of appeals granted summary judgment in favor of appellees, denying Ames's writ of mandamus. Ames appealed to the Ohio Supreme Court as of right.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The board must produce Exhibit A to the minutes of the September 17 SWMD meeting to Ames in response to his public-records request. The court of appeals shall consider (1) whether the SWMD's alleged violation of the Open Meetings Act entitles Ames to further relief and (2) whether Ames should be awarded statutory damages under the Public Records Act.

CASES CITED

- *Danis Clarkco Landfill Co. v. Clark Cty. Solid Waste Mgt. Dist.*, 73 Ohio St.3d 590, 653 N.E.2d 646 (1995)
- *State ex rel. Manley v. Walsh*, 142 Ohio St.3d 384, 2014-Ohio-4563, 31 N.E.3d 608
- *State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. of Commrs.*, 128 Ohio St.3d 256, 2011-Ohio-625, 943 N.E.2d 553
- *White v. King*, 147 Ohio St.3d 74, 2016-Ohio-2770, 60 N.E.3d 1234
- *State ex rel. Cincinnati Post v. Cincinnati*, 76 Ohio St.3d 540, 668 N.E.2d 903 (1996)
- *State ex rel. MORE Bratenahl v. Bratenahl*, 157 Ohio St.3d 309, 2019-Ohio-3233, 136 N.E.3d 447
- *Manogg v. Stickle*, 5th Dist. Licking No. 97 CA 104, 1998 Ohio App. LEXIS 1961
- *State ex rel. Long v. Council of Cardington*, 92 Ohio St.3d 54, 748 N.E.2d 58 (2001)
- *State ex rel. Inskeep v. Staten*, 74 Ohio St.3d 676, 660 N.E.2d 1207 (1996)
- *State ex rel. White v. Clinton Cty. Bd. of Commrs.*, 76 Ohio St.3d 416, 667 N.E.2d 1223 (1996)
- *State ex rel. Cleveland Mun. Court v. Cleveland City Council*, 34 Ohio St.2d 120, 296 N.E.2d 544 (1973)
- *State ex rel. Armatas v. Fifth Dist. Court of Appeals*, 158 Ohio St.3d 1516, 2020-Ohio-2976, 145 N.E.3d 305

CITED IN

- *State ex rel. Ames v. Portage Cty. Bd. of Commrs.*, *State ex rel. Ames v. Portage Cty. Bd. of Commrs.*, 2021-Ohio-2374

