

Clerk's Department

From: robertbergesq@aol.com
Sent: Wednesday, June 03, 2020 3:44 PM
To: Mayor; Attorney's Office; Manager's Department; Clerk's Department
Subject: Village Board Work Session - June 4, 2020 - Notice Fails To Comply With Open Meetings Law Yet Again

CAUTION: External sender.

Dear Mayor, Village Attorney, Village Manager, and Village Clerk:

I just received the following notification from the Village regarding a "short notice" Village Board Work session scheduled for tomorrow via Zoom.

Village Board Work Session

Thursday, June 4, 2020

A Work Session of the Scarsdale Village Board of Trustees is scheduled for Thursday, June 04, 2020 at 5:30 PM. The meeting will be conducted via Zoom video conferencing service. Members of the public wishing to participate in the meeting can do so via online link at <https://zoom.us/j/92452417812> or call into the meeting at 1-929-436-2866 and entering the Meeting ID 924 5241 7812. Upon opening the work session in public, it is anticipated that the Board will act upon a motion to convene an Executive Session regarding public safety and law enforcement matters. This will be the sole agenda item for the work session.

You state that the "sole agenda item" for the work session will be "public safety and law enforcement matters." This description fails to comply with the Open Meetings Law. This is not our first rodeo on this topic. Our new Village Attorney was hired because he's supposed to be an expert on such matters. Section 105 of the Public Officers Law addresses the very limited matters for which you are permitted to move into Executive Session to discuss. Section 105 provides in relevant part:

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:
 - a. matters which will imperil the public safety if disclosed;
 - b. any matter which may disclose the identity of a law enforcement agent or informer;
 - c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
 - d. discussions regarding proposed, pending or current litigation;
 - e. collective negotiations pursuant to article fourteen of the civil service law;
 - f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
 - g. the preparation, grading or administration of examinations; and

h. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

Your general statement that you intend to discuss "public safety and law enforcement matters" plainly is insufficient. Moreover, you cannot simply parrot the language of subsections (a), (b), and (c) and thereby comply the Section 104. You must provide me with enough specificity regarding the intended discussions so that I can determine the appropriateness of convening in Executive Session. For example, if there is a specific threat of protest march in the Village of Scarsdale that you have a reasonable belief might turn violent based on credible sources, and you want the Chief of Police to discuss confidential strategy for a police response, that would presumably meet the standard for discussion in Execution Session. For that, you could describe the topic of discussion as "discussion with Police Chief regarding police response strategy to possible protest rally in Village of Scarsdale based on credible source." Please correct this immediately. Thank you. Best regards, Bob Berg.