

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 15, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 98-0911

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN EX REL., JEROME J. BLONIEN,

RELATOR-APPELLANT,

V.

**LOUIS CARL, CHARLOTTE FLEISCHMAN,
WILLIAM KANACK, PETAR KOKANOVIC,
FRANK STOFFEL, RONALD HAYWARD AND
VILLAGE OF WEST MILWAUKEE,**

DEFENDANTS-RESPONDENTS.

APPEAL from an order of the circuit court for Milwaukee County:
JACQUELINE D. SCHELLINGER, Judge. *Affirmed.*

Before Wedemeyer, P.J., Fine and Curley, JJ.

PER CURIAM. Jerome J. Blonien appeals from the trial court's grant of summary judgment in favor of the Village of West Milwaukee and the members of its Board of Trustees, Louis Carl, Charlotte Fleischman, William

Kanack, Petar Kokanovic, Frank Stoffel, and Ronald Hayward.¹ Blonien claims that there is a genuine issue of material fact regarding whether the village board violated the Open Meetings Law, and that the trial court, therefore, erred in granting summary judgment.² We affirm.

BACKGROUND

On August 17, 1992, the village board held an open meeting. The public notice of the meeting provided, as relevant to this appeal, that the legislative committee would address the following item of business: “Consideration to make nominations & selections to fill Commission vacancies on Civil Service and Zoning Board of Appeals and alternates for all Commissions.” Blonien attended the meeting and informed the village board he believed that the public notice of the meeting was insufficient to inform the public of the subject matter of the meeting. Specifically, Blonien claimed that the notice was

¹ Throughout this opinion, the Village of West Milwaukee and the members of its Board of Trustees will be referred to collectively as the village board.

² The Open Meetings Law provides, in relevant part:

Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

Section 19.83(1), STATS.

Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof.

Section 19.84(2), STATS.

insufficient because it failed to identify the candidates who would be considered to fill the vacancies. After consulting with the village attorney, the village board proceeded to fill the vacancies. The village board appointed Trustee Kokanovic's wife to the Civil Service Commission, and appointed Trustee Fleischman's mother to the Zoning Board of Appeals.

Blonien filed a complaint seeking to invalidate the appointments, and to impose forfeitures on the individual trustees for participating in a meeting that allegedly violated the Open Meetings Law.³ The village board moved for summary judgment, arguing, among other things, that the public notice was sufficient to satisfy the requirements of the Open Meetings Law. The trial court granted the village board's motion for summary judgment.

DISCUSSION

Blonien argues that there is a genuine issue of material fact regarding whether the village board violated the Open Meetings Law, and that the trial court, therefore, erred in granting summary judgment. Specifically, Blonien asserts that there was wide public concern regarding whether trustees could appoint their relatives to commissions, and that if the village board knew that

³ Section 19.96, STATS., provides:

Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than \$25 nor more than \$300 for each such violation. No member of a governmental body is liable under this subchapter on account of his or her attendance at a meeting held in violation of this subchapter if he or she makes or votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his or her votes on all relevant motions were inconsistent with all those circumstances which cause the violation.

relatives of the trustees were candidates for the commission vacancies, then the village board was required to give notice specifying those candidates. He asserts that there is a question of fact regarding whether the village board knew that relatives of the trustees would be nominated to fill the vacancies on the Civil Service Commission and the Zoning Board of Appeals.

We review *de novo* the trial court's grant of summary judgment. *See Green Spring Farms v. Kersten*, 136 Wis.2d 304, 315, 401 N.W.2d 816, 820 (1987). Section 802.08(2), STATS., sets forth the standard by which summary judgment motions are to be judged: "The judgment sought shall be rendered if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." The interpretation of a statute is a question of law, subject to *de novo* review. *See Smith v. Dodgeville Mut. Ins. Co.*, 212 Wis.2d 226, 233, 568 N.W.2d 31, 34 (Ct. App. 1997).

Section 19.84(2), STATS., provides, in relevant part:

Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof.

Blonien asserts that § 19.84(2), STATS., as interpreted in several opinions issued by the Attorney General, required the village board to give notice of the names of the candidates for the commission vacancies if the village board knew that relatives of trustees were candidates. In one of the opinions upon which Blonien relies, the Attorney General advises that "[w]here members know specific

items in advance of the meeting, they should be communicated to the presiding officer who should give notice of the supplemental agenda in the manner described above. Matters of importance or of wide interest should be postponed until more specific notice can be given.” 66 Op. Att’y Gen. 93, 96 (1977). The opinion further advises that “[t]he notice should be as specific and informative as possible.” *Id.* Another Attorney-General opinion upon which Blonien relies advises:

[R]eliance upon a general phrase such as “such other matters as are authorized by law,” should be limited and should never be utilized as a means of concealment of the probable introduction and discussion of matters of importance or of wide concern which were known to the chief presiding officer or his designee at the time public notice was required to be given.

66 Op. Att’y Gen. 143, 145 (1977).

The Attorney-General opinions upon which Blonien relies, however, concern whether a meeting of a governing body can address matters pursuant to general public notice provisions such as “agenda revisions,” *see* 66 Op. Att’y Gen. 93, 96 (1977), or “such other matters as are authorized by law,” *see* 66 Op. Att’y Gen. 143, 145 (1977). The Attorney General opined that these general notice provisions were acceptable to allow the governing body to address topics that were not specifically set out in the notice, as long as those items were not intentionally omitted from the notice, but that the use of such general notice provisions should be avoided, and that notice should normally be as specific and informative as possible. *See* 66 Op. Att’y Gen. 143, 145 (1977); 66 Op. Att’y Gen. 93, 96 (1977); *see also* 66 Op. Att’y Gen. 68, 70 (1977).

Unlike the general notice provisions addressed in the Attorney-General opinions, the notice given by the village board specifically set forth the

subject matter that the legislative committee was to address at the meeting. The notice informed the public that the legislative committee would be addressing: “Consideration to make nominations & selections to fill Commission vacancies on Civil Service and Zoning Board of Appeals and alternates for all Commissions.” The notice specifically informed the public that the legislative committee would be holding a meeting to fill the vacancies on its Civil Service Commission and its Zoning Board; those members of the public interested in knowing whom the committee would appoint to those positions were sufficiently informed to enable them to attend that meeting. The notice, therefore, met the requirements of § 19.84(2), STATS.

This court’s opinion in *State ex rel. Schaeve v. Van Lare*, 125 Wis.2d 40, 370 N.W.2d 271 (Ct. App. 1985), supports our conclusion. In *Schaeve*, the Elmbrook Board of Education terminated Schaeve’s teaching contract after several closed session meetings. Schaeve argued that the meetings violated the Open Meetings Law because “the public notices did not contain enough specific information to adequately inform the public.” *Id.*, 125 Wis.2d at 47, 370 N.W.2d at 275. The notice provided that the Board would convene in a closed session “to conduct a hearing to consider the possible discipline of a public employee.” *Id.* (internal quotation marks omitted). This court rejected Schaeve’s argument that the notice was inadequate, concluding: “This information was specific enough to apprise members of the public as to the subject matter of the hearing. We find no requirement in the statute that the subject matter of a meeting must be explained with any more specificity.” *Id.*

Like the notice given in *Schaeve*, the notice here was specific enough to apprise members of the public of the subject matter of the meeting. Section 19.84(2), STATS., does not require further specificity.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.

