

# **Bond Case Briefs**

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## **OPEN MEETINGS - OHIO**

### **State ex rel. Ames v. Portage County Board of Commissioners**

**Supreme Court of Ohio - July 14, 2021 - N.E.3d - 2021 WL 2944137 - 2021-Ohio-2374**

Petitioner filed a mandamus action against county board of commissioners and county solid waste management district (SWMD) commissioners alleging the board violated the Open Meetings Act and the Public Records Act.

The parties filed cross-motions for summary judgment. The Court of Appeals granted the board's motion and denied petitioner's motion. Petitioner appealed.

The Supreme Court held that:

- Evidence established that SWMD was a valid entity created by statute, and thus board of county commissioners did not violate the Open Meetings Act by separately conducting SWMD business during recesses of the board's regular meetings;
- A genuine issue of material fact existed as to whether the use of a consent agenda during SWMD meetings violated the Open Meetings Act; and
- Petitioner was entitled to mandamus relief on his claim that the county board of commissioners violated the Open Meetings Act by failing to produce full and accurate minutes from SWMD meeting in response to petitioner's public-records request.

Evidence established that solid waste management district (SWMD) was a valid entity created by statute, and thus board of county commissioners did not violate the Open Meetings Act by separately conducting SWMD business during recesses of the board's regular meetings; statutes expressly authorized a board of county commissioners to create a SWMD, when a board of county commissioners established a SWMD it also served as the district's board of directors, and the General Assembly defined a SWMD as a political subdivision unto itself, separate from a county, though governed by the board of county commissioners that created it.

A genuine issue of material fact existed as to whether the use of a consent agenda during solid waste management district (SWMD) meetings violated the Open Meetings Act, as the use of a consent effectively closed the SWMD meetings because it prevented members of the public in attendance at the meetings from knowing which resolutions were being approved and hearing any deliberations on those resolutions, precluding summary judgment in mandamus action seeking to compel county board of commissioners to prepare, file, and maintain accurate minutes for SWMD meetings.

Petitioner was entitled to mandamus relief on his claim that the county board of commissioners violated the Open Meetings Act by failing to produce full and accurate minutes from solid waste management district (SWMD) meeting in response to petitioner's public-records request; the meeting minutes stated a list of expenditures totaling \$1,794.42 was "attached hereto as Exhibit 'A' and incorporated herein by reference," and it was undisputed that Exhibit A was not attached to the official minutes prepared by the board's clerk or included with the documents produced to petitioner

in response to his public-records request.

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