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## OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

### Attorney General Opinion No. 25-IB63

December 16, 2025

#### **VIA EMAIL**

John Reiss  
[jltreiss@comcast.net](mailto:jltreiss@comcast.net)

#### **RE: FOIA Petition Regarding the Town of Blades**

Dear Mr. Reiss:

We write in response to your correspondence dated November 24, 2025, alleging that the Town of Blades violated Delaware's Freedom of Information Act, 29 *Del. C.* §§ 10001-10008 ("FOIA"). We treat this correspondence as a Petition for a determination pursuant to 29 *Del. C.* § 10005 of whether a violation of FOIA has occurred or is about to occur. As discussed more fully herein, we determine that the Town did not violate FOIA by failing to convey in its agenda that a first reading of Ordinance No. 439 regarding the real estate property tax rate was planned for the Town Council's November 10, 2025 meeting.

#### **BACKGROUND**

The Town Council held a meeting on November 10, 2025 with an agenda item named "Second Reading: Resolution 2025.10.27.0001 Real Estate Property Tax Rate."<sup>1</sup> At the December 2, 2025 Council meeting, the agenda included the item: "Second Reading of Ordinance 439: Real Estate Property Tax Rate Change Ordinance Adopting The Change Of Real Estate Property Tax Rate."<sup>2</sup> The Petition alleges that at the November meeting, the Mayor advised the Council had changed the resolution on the agenda to Ordinance No. 439. You allege that the Town violated

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<sup>1</sup> Petition.

<sup>2</sup> *Id.*

FOIA, because the first reading of Ordinance No. 439 was not posted on the November meeting agenda.

## **DISCUSSION**

FOIA is intended to ensure that public business is done in the open, “so that . . . citizens shall have the opportunity to observe the performance of public officials and to monitor the decisions that are made by such officials in formulating and executing public policy.”<sup>3</sup> FOIA requires a meeting of a public body to be open to the public, except in limited circumstances.<sup>4</sup> In any action brought under Section 10005, the public body has the burden of proof to demonstrate compliance with FOIA.<sup>5</sup>

This Office’s authority is limited to determining alleged violations of the FOIA statute.<sup>6</sup> The Petition claims that the Town Council violated FOIA by failing to provide notice that a first reading of Ordinance No. 439 regarding the real estate property tax would occur at the meeting. However, FOIA does not mandate a process for noticing first or second readings of proposed ordinances; this municipal practice falls outside the scope of this Opinion.

Instead, FOIA requires sufficient notice be provided in any meeting agenda for the items intended to be discussed. An agenda for a public meeting must include a “general statement of the major issues” which a public body expects to discuss<sup>7</sup> and must be worded in “plain and comprehensible language.”<sup>8</sup> “In order that the purpose of the agenda requirement be served, [a meeting item] should, at least, ‘alert members of the public with an intense interest in’ the matter that the subject will be taken up by the [public body].”<sup>9</sup> While the public body must provide

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<sup>3</sup> 29 Del. C. § 10001.

<sup>4</sup> 29 Del. C. § 10004.

<sup>5</sup> 29 Del. C. § 10005(c).

<sup>6</sup> 29 Del. C. § 10005(e) (“Any citizen may petition the Attorney General to determine whether a violation of [FOIA] has occurred or is about to occur. “); *see, e.g., Del. Op. Att’y Gen.* 20-IB28, 2020 WL 7663557, at \*2 (Nov. 9, 2020) (“These matters of municipal law, concerning the authority of the Council President or Mayor, are outside the scope of the FOIA statute, and thus, we make no determination regarding these issues.”).

<sup>7</sup> 29 Del. C. § 10002(a).

<sup>8</sup> *Chem. Indus. Council of Del. v. State Coastal Zone Indus. Control Bd.*, 1994 WL 274295, at \*8 (Del. Ch. May 19, 1994).

<sup>9</sup> *Lechlitter v. Del. Dep’t of Natural Res. & Env’tl. Control*, 2017 WL 2687690, at \*2 (Del. Ch. Jun. 22, 2017) (quoting *Ianni v. Dep’t of Elections of New Castle Cnty.*, 1986 WL 9610, at \*4 (Del. Ch. Aug. 29, 1986)).

enough information to alert the public that a subject will be undertaken, the agenda's description need not provide for "every alternative that may take place with respect to a specific subject under consideration."<sup>10</sup> We determine that this item, "Second Reading: Resolution 2025.10.27.0001 Real Estate Property Tax Rate," on the November 10, 2025 meeting agenda provided adequate notice to a citizen with an intense interest in the real estate property tax rate change that the Council intended to address this subject at this meeting. Thus, we find no violation of FOIA in this regard.

### **CONCLUSION**

Based on the foregoing, we conclude that the Town did not violate FOIA by failing to convey in its agenda that a first reading of Ordinance No. 439 regarding a real estate property tax rate was planned for the Town Council's November 10, 2025 meeting.

Very truly yours,

/s/ Dorey L. Cole

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Dorey L. Cole  
Deputy Attorney General

Approved:

/s/ Patricia A. Davis

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Patricia A. Davis  
State Solicitor

cc: Michael R. Smith, Attorney for the Town of Blades

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<sup>10</sup> *Lechlitter v. Becker*, 2017 WL 117596, at \*2 (Del. Ch. Jan. 12, 2017) (finding that an agenda stating a lease amendment would be presented and considered was sufficient notice that a vote on this lease amendment might occur).