



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 4, 2018

Via electronic mail

Ms. Laura J. Morask
Supervisor
Main Township
1700 Ballard Road
Park Ridge, Illinois 60068
lmorask@mainetown.com

RE: OMA Request for Review – 2017 PAC 50999
Requester: Mr. Kirk Allen
Date of Meeting: November 28, 2017

Dear Ms. Morask:

The Public Access Bureau has received a Request for Review under section 3.5(a) of the Open Meetings Act (OMA) (5 ILCS 120/3.5 (West 2016)) from Mr. Kirk Allen alleging that the Board of Trustees (Board) of Maine Township (Township) violated the requirements of OMA at its November 28, 2017, meeting. Specifically, Mr. Allen alleges that the Board's vote to approve the destruction of a recording of a previous closed session meeting did not include an affirmative vote of at least three Board members in violation of sections 1.02 and 2.06(c) of OMA (5 ILCS 120/1.02, 2.06(c) (West 2016)). **He asserts that only two Board members and the Township Clerk, who is not a member of the Board, voted on the matter.** Mr. Allen's Request for Review is attached for your review. **We have determined that further action is warranted.**

In order to further evaluate this matter, we ask the Board or its legal representative to respond in writing to the allegations in Mr. Allen's Request for Review. If the Board voted to approve the destruction of the closed session recording at issue, please clarify the number of members that comprise the Board and the Board members who voted on that matter. In addition, please provide copies of the agenda, minutes, and video/audio recording of the open session portion of the November 28, 2017, meeting.

As required by section 3.5(b) of OMA 5 ILCS 120/3.5 (West 2016), please provide this information to our office within 7 business days after receipt of this letter. As we

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review this matter, we will notify you if we require additional records or information. Please note that under OMA, this office is required to forward a copy of any response from a public body to the requester and provide the requester an opportunity to reply. 5 ILCS 120/3.5 (West 2016). **If you claim that any portion of your written response is confidential, please send two versions of your response letter: a complete copy for this office's confidential review and a redacted version suitable for this office to forward to the requester.**

Please contact me at (312) 814-5206 if you have questions or would like to discuss this matter. Thank you.

Very truly yours,



TERESA LIM
Assistant Attorney General
Public Access Bureau

Enclosure

cc: *Via electronic mail*
Mr. Kirk Allen
P.O. Box 593
Kansas, Illinois 61933
kirk@illinoisleaks.com

Sanchez, Lidia

5049
Corr from Ren

From: Kirk Allen <Kirk@illinoisleaks.com>
Sent: Wednesday, December 27, 2017 1:27 PM
To: Public Access
Subject: FW: Request for Review

Additional information to the Request for Review.
<https://www.youtube.com/watch?v=9ug69m7c6OY&feature=youtu.be>

2hr:46min mark of the video from the August meeting reflects the Supervisor instructing the members that were not part of the prior board to abstain from voting and claims this is a Roberts Rules of order procedure.

Her statement on that issue is at 2:46:30

I would contend that this action during the August meeting was also a violation of the Open Meetings Act that should be included in the request for Review.

Kirk Allen

From: Kirk Allen
Sent: Wednesday, December 27, 2017 11:05 AM
To: 'PublicAccess@atg.state.il.us' <PublicAccess@atg.state.il.us>
Subject: Request for Review

Please consider this a request for review for violations of the Open Meetings Act by the Maine Township Supervisor and Clerk

Public Body:
Maine Township
1700 Ballard Rd.
Park Ridge, Illinois 60068
Chief Deputy Clerk - wtytko@mainetown.com

During the November 28th, 2017, meeting, agenda item number 11 was acted on. ([Link to agenda](#))

During the meeting, the Supervisor instructed three board members that they have to abstain from voting. It is our understanding that prior meetings she advised them that they have no say in voting on minutes created prior to them holding office. <https://www.youtube.com/watch?v=2UmC32rGpMM&t=3h45m27s>

In this meeting the Clerk voted and we understand he voted because he was a board member during the creation of the record in question.

We understand you cannot review violations of the Township code but as a reference, please note:

(60 ILCS 1/80-5) Sec. 80-5. Township board membership; officers.

.....The township clerk shall be the clerk of the township board but not a voting member, except that in the case of a tie vote to fill a vacancy in a township office, the clerk shall be entitled to cast one vote. Each person on the township board shall cast but one vote. The supervisor shall be the chairman of the board.

My request for review is based on the belief that they violated the Open Meetings Act, specifically this section:

5 ILCS 2.06 (c) *The verbatim record may be destroyed without notification to or the approval of a records commission or the State Archivist under the Local Records Act or the State Records Act no less than 18 months after the completion of the meeting recorded but only after:*

(1) the public body approves the destruction of a particular recording; and

(2) the public body approves minutes of the closed meeting that meet the written minute's requirements of subsection (a) of this Section.

In the video of the November meeting you will see that the public body did not approve the destruction but rather two board members and the Clerk, who has no vote on such a matter because he has no vote and is not a member of the public body. With only two members of the public body voting it is clear they did not have a majority vote to destroy the record in question.

Considering OMA requires the "public body" to approve the destruction of the record in question, it is clear from the video such approval was not in accordance with the Open Meetings act.

According to the Township code, the public body consists of the 4 elected board members and the Supervisor.

(60 ILCS 1/80-5) Sec. 80-5. Township board membership; officers.

(a) In each township, the township board shall consist of the supervisor and 4 other members elected at large from the township under Section 50-5.

I ask that you issue a binding opinion on this violation and instruct the public body to take the appropriate action to properly destroy the record in question.

Please correspond electronically to this request for review.

Thanks
Kirk Allen
PO Box 593
Kansas, IL 61933
217 508 0564