



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 1, 2021

Via electronic mail
Ms. Rogene Hamilton



Via electronic mail
Mr. John Nelson
Attorney at Law
1 Court Place Suite 300
Rockford, Illinois 61101
johnnelsonlaw@gmail.com

RE: OMA Request for Review – 2019 PAC 58965

Dear Ms. Hamilton and Mr. Nelson:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2018)). For the reasons explained below, the Public Access Bureau concludes that the Pecatonica Township Board of Trustees (Board) violated the requirements of OMA in connection with its July 16, 2019, meeting by enforcing an unreasonable public comment rule to prohibit a member of the public from addressing the Board.

In her Request for Review, Ms. Rogene Hamilton alleged that the Board violated section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2018)) by prohibiting her from addressing the Board during its July 16, 2019, meeting because she signed up two minutes after the Board's sign up deadline of 15 minutes before the start of its meeting. Section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2018)), provides that "[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body."

Under the plain language of section 2.06(g) of OMA, a public body may restrict public comment only pursuant to its established and recorded rules, which must tend to accommodate, rather than unreasonably restrict, the right to address public officials. Ill. Att'y Gen. Pub. Acc. Op. No. 14-012, issued September 30, 2014, at 6. An advance sign up rule that is

Ms. Rogene Hamilton
Mr. John Nelson
March 31, 2021
Page 2

enforced to prevent a member of the public from addressing a public body violates OMA if it is not reasonably necessary to promote a significant governmental interest. *Compare* Ill. Att'y Gen. Pub. Acc. Op. No. 14-012, at 6 (rule requiring members of the public to sign up to comment five days in advance of meetings, before the board was required to post its agenda, imposed an unreasonable restriction on public comment), *with* Ill. Att'y Gen. PAC Req. Rev. Ltr. 39640, issued June 22, 2016, at 3 (rule requiring prospective commenters to sign up by start of meeting did not unreasonably restrict the right to public comment).

The Public Access Bureau has previously determined that the same rule at issue in this Request for Review—the Board's requirement that an individual wishing to speak at a Board meeting must sign up no later than 15 minutes before the start of the meeting—violates section 2.06(g) of OMA.¹ Ill. Att'y Gen. PAC Req. Rev. Ltr. 51413, issued November 2, 2018; Ill. Att'y Gen. PAC Req. Rev. Ltr. 56533, issued May 20, 2019; Ill. Att'y Gen. PAC Req. Rev. Ltr. 61828, issued October 20, 2020. This office previously determined that "in absence of a compelling government interest, terminating sign-up for public comment 15 minutes before the start of Board meetings unreasonably restricts public comment," and, consequently, violates OMA. Ill. Att'y Gen. PAC Req. Rev. Ltr. 51413, at 4; Ill. Att'y Gen. PAC Req. Rev. Ltr. 56533, at 5. In the same determination, this office noted that the Board's response to the Request for Review "did not explain why it considers a 15 minute advance sign up rule necessary to ensure that its meetings are conducted efficiently or to maintain order," and that "requiring a written request to address public officials and setting an arbitrary early cut-off time for signing up potentially limits or reduces the number of people who are allowed to comment with no concomitant benefit to the public body." Ill. Att'y Gen. PAC Req. Rev. Ltr. 51413, at 4. Accordingly, this office requested that the Board review and revise its ordinance regulating public comment.

In this matter, the Board confirmed in its response to this office that it prohibited Ms. Hamilton from speaking during its July 16, 2019, meeting because she signed up past the deadline to speak, explaining that the Board believed that Ms. Hamilton was deliberately signing up late at its meetings. Subsequently, an Assistant Attorney General in the Public Access Bureau asked the public body to explain *how* the fifteen-minute sign-up rule advanced order and decorum at its meetings. The Board explained that the meetings of the Board had become unruly, that Ms. Hamilton had been disruptive, and "[t]he fifteen minute in advance sign in was placed into the ordinance for the purpose of restoring order and having proper decorum that

¹Pecatonica, Ill., Ordinance 2018-102 (March 20, 2018). In relevant part, the ordinance states that "nonmembers may address the Pecatonica Township Board if a written request is submitted to the Pecatonica Township Board for the meeting the person requesting to speak at, no less than fifteen (15) minutes prior to the start of the regular meeting of the Pecatonica Township Board."


Ms. Rogene Hamilton
Mr. John Nelson
March 31, 2021
Page 3

lasted past the Pledge of Allegiance."² However, the Board did not explain how that rule kept order and decorum, but rather reinforced Ms. Hamilton's complaint that the rule was to prevent public comment by her since she was the only person signed up to speak at the meeting.

As with the previous Requests for Review, this office concludes that the Board did not demonstrate that imposing its 15-minute advance sign up requirement was reasonably necessary to maintain order or to ensure that its meeting was conducted efficiently. Because the Board did not provide any new rationale that would warrant a different result here, it is unnecessary for this office to repeat the same analysis. Under these circumstances, the Public Access Bureau concludes that the Board violated section 2.06(g) of OMA at its July 16, 2019, meeting when it prohibited Ms. Hamilton from addressing the Board. This office again requests that the Board review and revise its ordinance regulating public comment accordingly.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. If you have any questions, please contact me at the Chicago address on the first page of this letter, esteinberg@atg.state.il.us, or (312) 814-5201. This letter serves to close this file.

Very truly yours,


EDIE STEINBERG
Senior Assistant Attorney General
Public Access Bureau

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²Letter from John M. Nelson to Edie Steinberg, [Senior Assistant Attorney General, Public Access Bureau,] Office of the Attorney General (August 16, 2019).