



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 11, 2013

Via electronic mail
Ms. Diane Benjamin
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Bloomington City Council
c/o Mr. David A. Hales, City Manager
City of Bloomington
109 East Olive Street
Bloomington, Illinois 61701
dhales@cityblm.org

RE: Open Meetings Act Request for Review – 2013 PAC 23271

Dear Ms. Benjamin and Mr. Hales:

The Public Access Bureau has received a Request for Review submitted by Ms. Diane Benjamin pursuant to section 3.5(a) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(a) (West 2010)) in which Ms. Benjamin alleges that the Bloomington City Council has violated section 2.06(d) of OMA (5 ILCS 120/2.06(d) (West 2010)) by failing to release any closed meeting minutes since September, 2007. Section 2.06(d) of OMA provides:

Each public body shall periodically, but no less than semi-annually, meet to review minutes of all closed meetings. At such meetings a determination shall be made, and reported in an open session that (1) the need for confidentiality still exists as to all or part of those minutes or (2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection. The failure of a public body to strictly comply with the semi-annual review of closed session written minutes, whether before or after the effective date of this amendatory Act of the 94th General Assembly, shall not cause the written minutes or related verbatim record to become public or available for inspection in any judicial proceeding, other than a proceeding involving an alleged

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violation of this Act, if the public body, within 60 days of discovering its failure to strictly comply with the technical requirements of this subsection, reviews the closed session minutes and determines and thereafter reports in open session that either (1) the need for confidentiality still exists as to all or part of the minutes or verbatim record, or (2) that the minutes or recordings or portions thereof no longer require confidential treatment and are available for public inspection.

On March 15, 2013, the Public Access Bureau forwarded a copy of the Request for Review to the Council and asked that it respond to this allegation. On March 28, 2013, Ms. Rosalee Dodson, Assistant Corporation Counsel for the City of Bloomington, responded:

A review of all closed session minutes was last completed by the City on September 7, 2007. * * * The City concedes that, since 2008, it has failed to review the minutes of all closed session meetings on a semi-annual basis. * * * * Moving forward, the City will comply with all provisions of the Open Meetings Act, including the requirements of Section 2.06(d), at issue here. On April 8th the City Council will review all closed session minutes since 2007 and on April 22nd (in open session) authorize the release of executive session minutes that have been determined to no longer require confidential treatment. This practice will be followed every six (6) months.¹

DETERMINATION

This office concludes that the City Council violated section 2.06(d) of OMA by failing to review the minutes of its closed meetings on a semi-annual basis from September, 2007, to the date of this Request for Review. We note, however, that the Council has acted promptly to address this violation by scheduling a review of all closed sessions minutes at its April 8, 2013, meeting.² Provided that the Council reviews the closed session minutes no later than 60 days following notice of the violation and makes the necessary determinations regarding

¹Letter from Rosalee Dodson, Assistant Corporation Counsel, City of Bloomington, to Matthew M. Sebek, Assistant Attorney General, Public Access Bureau (March 28, 2013).

²The City has confirmed that the Council conducted this remedial review of its closed session minutes at its April 8, 2013, meeting. E-mail from Rosalee Dodson, Assistant Corporation Counsel, City of Bloomington, to Matthew M. Sebek, Assistant Attorney General, Public Access Bureau (April 11, 2013).

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whether to release or to continue to withhold the minutes, then no further remedy is required under section 2.06(d) of OMA.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This correspondence shall serve to close this file. If you have any questions, you may contact me at (217)782-9078.

Very truly yours,



MATTHEW M. SEBEK
Assistant Attorney General
Public Access Bureau

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cc: Ms. Tracey Covert, City Clerk
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