



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 30, 2017

Via electronic mail
Ms. Diane Benjamin
Bloomington Normal News
blnnews@yahoo.com

RE: OMA Request for Review – 2017 PAC 50371

Dear Ms. Benjamin:

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2016)). For the reasons set forth below, we have determined that no further action in this matter is warranted.

On November 7, 2017, you submitted a Request for Review to the Public Access Bureau seeking review of the public comment policy of the Board of Trustees of the Town of Normal (Board). Specifically, you stated that the Board's rules require members of the public to sign up two hours in advance of meetings to address the Board. You allege that at the November 6, 2017, meeting two citizens signed up in accordance with the established public comment rules to oppose raising taxes, which allowed the Board time to recruit three citizens to speak in favor of raising the property taxes. You assert the ability of the Board to "'plant' opposition speakers based on the number of speakers who sign up 2 hours in advance must be declared illegal."¹

Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2016)) provides that a "[a] person who believes that a *violation* of this Act by a public body has occurred may file a request for review" which "*must include a summary of the facts supporting the allegation.*" (Emphasis added.) Section 2.06(g) of OMA (5 ILCS/120/2.06(g) (West 2016)), provides that "[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body."

¹E-mail from Diane Benjamin, BlnNews.com, to Public Access [Bureau] (November 7, 2017).

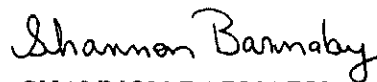
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Your Request for Review does not allege that you or any other member of the public was prohibited from addressing Board officials at the November 7, 2017, meeting. Without an allegation that a public bodies' rules concerning public comment were applied in a manner that violated OMA, this office will not undertake a review of those rules.

The Public Access Counselor, however, is also charged with providing advice and education with respect to OMA and the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2016)). *See* 15 ILCS 205/7 (a) (West 2016). Public bodies may generally promulgate reasonable time, place and manner regulations that are necessary to further a significant governmental interest. However, such rules must tend to accommodate, rather than unreasonably restrict, the right to address public officials. *See* Ill. Att'y Gen. Pub. Acc. Op. No. 14-012, issued September 30, 2014, at 6. In that binding opinion, the Attorney General concluded that a rule requiring members of the public to sign up to speak five days before a meeting violated section 2.06(g) of OMA. In other Requests for Review when the purpose of advance sign-up hours before a meeting was challenged, the public body agreed to eliminate the requirement from its rules. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 40404, 40417, 40493, issued May 11, 2016. The Board may wish to consider whether it has a significant governmental interest that it is furthering by requiring speakers to sign up two hours in advance of its meetings in order to address Board officials.

If you have any questions, you may contact me by mail at the Chicago address on the first page of this letter. This letter serves to close this matter.

Very truly yours,


SHANNON BARNABY
Assistant Attorney General
Public Access Bureau

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cc: *Via electronic mail*
The Honorable Chris Koos
Mayor of Town of Normal
City Hall
4th floor
11 Uptown Circle
Normal, Illinois 61761
mayor@normal.org