

OMA – REQUEST FOR REVIEW BY PUBLIC ACCESS COUNSELOR (PAC)

Name of Requester: Karyn Smith

Street Address: [REDACTED]

E-mail Address: [REDACTED]

Telephone Number: Preferred Method of Contact: U.S. Mail E-mail

Name of the Public Body: Normal Town Council

Date of Alleged Violation of Open Meetings Act (OMA) by Public Body: February 4, 2019

*A Request for Review usually must be filed within 60 calendar days of the date of the alleged violation of OMA. However, if facts concerning the violation are not discovered within the 60-day period, but are discovered at a later date by a requester utilizing reasonable diligence (not exceeding 2 years after the alleged violation), a Request for Review may be filed within 60 days of the discovery of the alleged violation. The extended period for filing a Request for Review applies only to violations occurring at meetings on or after August 19, 2015.

Please provide a summary of facts supporting your allegations that the public body violated OMA. Attach additional pages as necessary:

I was not allowed to speak at a public meeting on Monday, February 4, 2019, because what I wanted to address was not on the Council's agenda for that evening. This violates a previous ruling from the Attorney General's office. Attached is OMA request for review, **2016 PAC 45349** submitted by Mr. Craig Stimpert. Note page 6:

Next, the Council's response states that the Town's authority to confine topics to be discussed while addressing the Council to matters "germane to the meeting agenda of the Town Council meeting" ⁶ was affirmed in 2016 PAC 37631 (Ill. Att'y Gen. PAC Req. Rev. Ltr. 37631, issued December 28, 2015). That letter concluded that the Council did not violate OMA when it refused to let a citizen comment on a matter that was not related to any subject on the meeting agenda. The Council should be aware, however, that since that time the

position of the Public Access Bureau has evolved. In Ill. Att'y Gen. PAC Req. Rev. Ltr. 38037, issued August 1, 2016, this office determined that because a public body may discuss matters not listed on a meeting agenda, it would be unreasonable to limit the public's ability to comment to agenda items:

OMA does not preclude members of a public body from "the consideration of items not specifically set forth in the agenda," (5 [LCS 120/2.02(a) (West 2014)), as long as the public body does not take final action on items not listed on the agenda. Given that the public body itself is able to discuss matters that are not specifically listed on the agenda, a rule that would prohibit members of the public from addressing matters that are not listed on the agenda would impermissibly restrict the right to public comment as outlined in section 2.06(g). Ill. Att'y Gen. PAC Req. Rev. Ltr. 38037, at 3,

Here is additional information surrounding the discussions and activities of the Town Council that motivated me to seek this opportunity to speak before the February 4, 2019 meeting.

The Normal Town Council voted to include three buildings in Uptown Normal in its planned Trail East project in December 2018. This decision was referred to the Normal Historic Preservation Commission reviewed this decision at their January meeting. A majority on this Commission voted against the demolition of these three structures. If the Normal Town Council did nothing before Friday, February 8, 2019, the buildings would be demolished as part of the Trail East revised plans presented to the Town Council at their December 2018 meeting.

I attended the December meeting and spoke against moving forward with this revised plan as the information supporting the changes included calculations based on Net Present Value – a sophisticated accounting/financial concept. The town's report failed to include information about the interest rate used to discount the numbers cited to justify the revised plans and omitted the number of periods used in the discount calculation. During that December meeting, a city staffer did provide clarification of the time period used, but the interest rate discount factor was never provided.

I attended the January meeting of the Historic Preservation Commission and was given the opportunity to suggest that at least the facades of the buildings should be preserved which the Historic Preservation chair thought had some merit. I wished to repeat this request at the Town Council meeting on Monday, February 4, 2019.

As required by the Town Council, I submitted my request in writing before the meeting deadline. My request was denied by e-mail. Both of those items are attached to this form. In accordance with the instructions in the denial, I appealed in person to Mayor Koos to ask to still be provided the opportunity to address the Council and was again denied this opportunity as 'this item was not on the agenda'.

I am submitting this appeal to the Attorney General's office as I believe this denial was not consistent with Illinois' Open Meeting Act.

- Absent any action from the Council on the Historic Preservation Commission's decision by February 8, 2019, the demolition order will proceed.
- The Town Council opted to NOT include a discussion of this matter during their February 4, 2019 meeting and so no opportunity was provided for citizens to voice opinions on this matter before the demolition will move forward.
- The agenda information was provided to me on Friday, February 1, 2019 providing little advance notice of the omission of this topic from the Town Council's agenda on Monday, February 4, 2019.
- I was required to request in writing, the opportunity to address the Council by 5:00 p.m., Monday, February 4, 2019. I did so on Sunday, February 3, 2019 and received notice that my request was read that evening at 6:14 p.m.
- I received notice that my request was rejected on Monday, February 4, 2019 at 12:14 p.m. and was instead encouraged to contact Council members directly with my concerns and comments. However, I teach at Illinois State University and ethics prevent me from participating in personal and political activities on university property, so this alternative was not really a viable option for me to pursue.
- I did have the opportunity to appeal this decision directly to Mayor Koos before the Council meeting on Monday, but he stood by the decision NOT to allow me to speak..

Thank you for your assistance in this matter.

I hereby submit this request for the PAC to review this potential OMA violation.

Signature of Requester: Karyn Smith Date: February 8, 2019