



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Kwame Raoul  
ATTORNEY GENERAL

February 6, 2019

*Via electronic mail*

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Mr. Trygve Thomas Meade  
Meade Law Office, P.C.  
3106 North Main Street  
Canton, Illinois 61520  
firm@meadelawpc.com

Re: OMA Request for Review – 2018 PAC 50750

Dear [REDACTED] and Mr. Meade:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2016)). For the reasons discussed below, this office concludes that the Board of Trustees (Board) of Pleasant Township (Township) violated OMA by prohibiting a member of the public from addressing the Board during its December 6, 2017, meeting.

On December 11, 2017, [REDACTED] submitted a Request for Review alleging that the Board did not allow him to address it during its December 6, 2017, meeting because he did not fill out a form providing the topic he wished to speak about and his signature.<sup>1</sup> On

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<sup>1</sup> [REDACTED] also alleged that the Board violated OMA by (1) not holding a public hearing at the site of a road closure, and (2) commingled a budget hearing with a regularly scheduled meeting. No provision of OMA requires a public body to hold a meeting at the site of road closure, nor does OMA govern the commingling of meetings. To the extent that the Request for Review could be construed to allege violations of procedures required by other statutes or rules, those allegations are not subject to review by the Public Access Counselor. *See* 15 ILCS 205/7(c)(3) (West 2016) (limiting the Public Access Counselor's authority to resolve disputes to alleged violations of OMA and the Freedom of Information Act (5 ILCS 140/1 *et seq.* (West 2016))).

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December 21, 2017, the Public Access Bureau forwarded a copy of the Request for Review to the Township Supervisor and requested a detailed written response to ██████████ allegations, together with copies of the minutes, any recordings of the meetings, a copy of the Board's rules regarding public comment, and the public comment form.

In a letter dated January 16, 2018, the Township's outside counsel submitted a written response, on behalf of the Township, and provided the Public Access Bureau with copies of the agenda and minutes of the Board's December 6, 2017, meeting, its rules regarding public comment, and a copy of the sign-in form from the December 6, 2017, meeting, which contains an illegible signature and an illegible topic for discussion. The Township's public comment rules provide in pertinent part:

1. **Sign in sheet.** Any person who wishes to make comment during the relevant portion of a township meeting must write their name and the topic of comment on a sheet provided for that purpose prior to the meeting. If their name and topic does not appear on the sheet at the beginning of the meeting they may not make any comment at that meeting.<sup>[2]</sup>

This office forwarded a copy of the Township's response letter to ██████████ he replied on January 22, 2018. ██████████ also provided this office with an audio recording of the December 6, 2017, meeting.

### DETERMINATION

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." Indeed, the Attorney General has previously concluded that section 2.06(g) of OMA "requires that all public bodies subject to the Act provide an opportunity for members of the public to address public officials at open meetings." Ill. Att'y Gen. Pub. Acc. Op. No. 14-012, issued September 30, 2014, at 5; *see also* Ill. Att'y Gen. Pub. Acc. Op. No. 14-009, issued September 4, 2014, at 4. Under the plain language of section 2.06(g) of OMA, public comment must be permitted in accordance with the public body's established and recorded rules.

Although OMA does not specifically address the nature of rules that a public body may permissibly adopt, a board may adopt rules to maintain order and decorum at public

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<sup>2</sup>Pleasant Township, Fulton County, Ill., Ordinance Concerning Public Participation in Township Meetings, Ordinance No. 2017-7, enacted November 1, 2017.

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meetings to ensure that meetings are conducted efficiently. *See Timmon v. Wood*, 633 F. Supp. 2d 453, 465 (W.D. Mich. 2008); *see also* Ill. Att'y Gen. Pub. Acc. Op. No. 14-0012, at 5 (a public body may promulgate reasonable "time, place and manner" rules aimed at preserving order and decorum). However, such rules must tend to accommodate, rather than to unreasonably restrict, the right to address public officials. *See I.A. Rana Enterprises, Inc. v. City of Aurora*, 630 F. Supp. 2d 912, at 923-25 (N.D. Ill. 2009).

A rule that promotes order and decorum by requiring members of the public to sign up in advance to address a public body does not violate the first amendment to the United States Constitution provided that it is reasonable in time and scope. *Timmon v. Jeffries*, No. 1:08-CV-645, 2009 WL 270043, at \*3 (W.D. Mich. Jan. 30, 2009) (collection of sign-up forms immediately before public comment portion of meeting was a permissible narrowly tailored restriction) *see also Bach v. School Board of City of Virginia Beach*, 139 F. Supp. 2d 738, 741 (E.D. Va. 2001) (requiring speakers to sign-up in advance of meeting is a reasonable content neutral regulation). However, an advance sign up rule that is 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. 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).

In this instance, the Township's public comment rule requires a member of the public who wishes to address public officials during an open meeting to write his or her name on a sign-in sheet at the beginning of the meeting. As written, that portion of the public comment rules appears to be a reasonable rule which facilitates running a timely and orderly meeting; knowing how many people wish to speak and in what order to call participants may promote efficiency. However, the Township provided no information which suggests that the Board used its sign-up rule to run a timely and orderly meeting; rather the evidence establishes that the Board used its sign-up rule for the purpose of prohibiting public comment from ██████████

The meeting minutes reflect that two members of the public attended the December 6, 2017, meeting, one of whom was ██████████<sup>3</sup> In response to questions from an Assistant Attorney General in the Public Access Bureau, ██████████ stated that he was the former highway commissioner of the Township for 16 years and that the Board members knew him, but the Township Supervisor denied him the right to address the Board because his signature was not legible.<sup>4</sup> This office has listened to that portion of the audio recording of the December 6, 2017,

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<sup>3</sup>Pleasant Township Board of Trustees, Meeting, December 6, 2017, Minutes 1.

<sup>4</sup>E-mail from ██████████ to Edie Steinberg, [Assistant Attorney General, Public Access Bureau] (January 2, 2019).

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Board meeting which concerns signing up for public comment. Early in the meeting, the Township Supervisor asked persons to sign in if they desire to speak ██████████ and the Supervisor debated that requirement. Later, after announcing it was time for public input, the Supervisor stated "We have a sign in sheet that has just a scribble on it. So this is not an actual signature. My opinion is that this is not a legible signature, deliberately \* \* \* so we will move on."<sup>5</sup> The Township's response to this office explained that "[b]ecause ██████████ refused to follow the rules established by Pleasant Township in Ordinance No. 2017-7, \* \* \* ██████████ was not allowed to speak."<sup>6</sup>

Rather than asking the two members of the public if either had signed up to speak, and if so, allowing that person to address the public officials, the Board simply denied ██████████ statutory right to speak because his signature was illegible. The Board did not provide any information indicating why the need for a legible signature was necessary to promote order and decorum at the meeting, or to further any other significant governmental interest, especially when it was readily apparent that ██████████ had marked the sign-up sheet. Because the Board applied its advance sign-up rule in a manner that unreasonably restricted the right to address public officials, this office concludes that the Board violated section 2.06(g) of OMA during its December 6, 2017, meeting.<sup>7</sup>

In accordance with the conclusions of this letter, the Public Access Bureau requests that the Board provide an opportunity for the public to address it at all future meetings. We remind the Board that rules which are used for the purpose of prohibiting public comment rather than accommodating the right to address public officials impermissibly restrict the public's statutory right to address the Board. Many public bodies that use sign-in sheets will also allow comment from other members of the public when time permits. This office suggests that the Board establish a less restrictive policy for public comment.

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<sup>5</sup>Pleasant Township Board of Trustees, Meeting, December 6, 2017, Audio Recording.

<sup>6</sup>Letter from Trygve Thomas Meade to Edie Steinberg, [Assistant Attorney General,] Office of the Public Access Counselor (January 16, 2018), at 1.

<sup>7</sup>This determination is limited to the Board's denial of an individual's right to address the Board pursuant to its rule requiring advance sign-up by a prospective commenter at the start of a meeting; this determination does not assess the propriety of the remainder of the Board's public comment provisions. However, we note that requiring a member of the public to set forth the topic of his or her comment in writing in advance of a meeting may create a chilling effect on speech at public meetings. *See* Ill. Att'y Gen. Pub. Acc. Op. No. 14-009, at 7 (a rule requiring members of the public to provide a complete home address prior to speaking would exceed the scope of rulemaking under section 2.06(g) because it may have a chilling effect on persons who wish to speak at public meetings). Therefore, the Board may wish to review its public comment rules to ensure that they don't impermissibly restrict the public's statutory right to address the Board.

