

VanKerkhoff, Mark

From: Joe Miller <joemiller@camptontownship.com>
Sent: Friday, February 05, 2016 12:06 PM
To: VanKerkhoff, Mark
Subject: objection to and notification of potential violation of Open Meetings Act
Attachments: FW: FOIA requests February 2 and 4, 2016; FOIA requests February 2 and 4, 2016

Dear Mark,

I hereby formally make my objections known to the County as well as notify the ZBA that I have filed a complaint with the Public Access Counselor of the Office of the Illinois State's Attorney regarding the following:

In review of the records provided by your office I believe that the ZBA has violated the Open Meetings Act (OMA) during its February 2nd meeting, specifically (5 ILCS 120/2.02) (from Ch. 102, par. 42.02) Sec. 2.02.

At close of the meeting on February 1st (on or about 10:30 at night) Chairman White ascertained that no more members of the public desired to speak and formally closed that portion of the meeting. He had previously closed all testimony from the petitioner and objectors. Transcripts show that he went on to state that the night of February 2nd would be reserved exclusively for closing arguments and that the public would not be allowed to speak further. To all present, this became the publicly declared and agreed de facto agenda for February 2nd. This was further reiterated after formal close of the meeting in which he reaffirmed the February 2nd meeting agenda.

Per the February 1st transcript that I received and reattach here, pertinent sections may be found at:

- 1127.12 through 1127.24 (formal request whether anyone else from the public wishes to speak and closing of public comments)
- 1128.1 through 1129.5 (public statement of the de facto agenda for the February 2nd meeting)
- Lines 1129.18 through 1130.1 (reaffirmation of the agenda for the February 2nd meeting)

During the period from the close of meetings on February 1st through to opening the new meeting on February 2nd @ 7 pm, Chairman White directed your office to request that the petitioner make one of their witnesses available to testify and be cross-examined publicly that evening (second attachment, last page). This request was made even though the petitioner had previously closed their testimony and waived their desire to present and have any other of their witnesses cross-examined. No advance notice was given to the public or objectors RE this significant change, though foreknowledge of this appearance was provided directly and exclusively to the petitioner in that the inquiry was made through them. Due to this material change, neither the objectors nor public were prepared for cross-examination. Despite objections to this process the meeting continued. Had the public been made aware of this significant change with proper notice, and although ill, I would have made arrangements to be at the meeting and ask questions. As Trustee of Campton Township that had engaged previously in this process through attending hearings and cross-examining witnesses, I object that the ZBA's actions prevented me from hearing the testimony and cross-examining the witness to impugn their credibility. To compound this error, it is my understanding that additional materials from the petitioner were also allowed to be entered into the hearing's record – yet another potential violation of the OMA.

I believe the OMA is clear that meetings may continue within a 24 hour period only so long as there is no change to the agenda. That agenda had clearly been set and reaffirmed the night before, then materially and significantly changed the following evening. Due to this, no action or vote by the ZBA could credibly re-open testimony on the 2nd. If the Chairman had a desire to have the witness appear and present testimony, the proper procedure would have been to cancel the February 2nd meeting and provide adequate notification to the objectors and public RE a new meeting and agenda.

I formally request that my objection be entered into the public record RE this petition.

Sincerely,

Joe Miller
Trustee
Campton Township