

LEGAL ALERT

PAC Advises Certain Meeting Rules Limiting Public Comment Are Impermissible

The Office of the Attorney General recently reviewed the rules of procedure adopted by the Town of Normal for its Council meetings. The Illinois Attorney General has concluded that the rules, which include a prohibition on members of the public addressing the council more than once within a 45 day period, requirement that public comment be limited to matters germane to the meeting agenda of the Town Council meeting, as well as the requirement that any citizen addressing the Council must first provide their “address and affiliation” , are impermissibly restrictive and in violation of the Open Meetings Act.

A full copy of the opinion is available at the following link:

[OMA Request for Review – 2016 PAC 45349](#)

Authored By:

Scott F. Uhler

(312) 984-6421

sfuhler@ktjlaw.com

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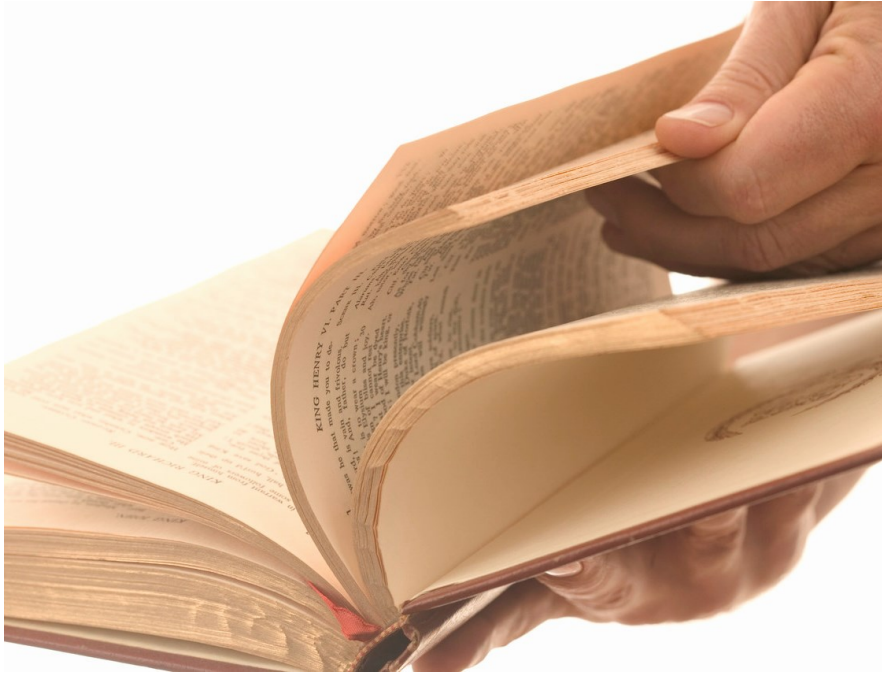
SUMMARY OF OPINION

The Office of the Attorney General was asked to review certain rules of procedure adopted by the Town of Normal. Included in those rules, were a prohibition on addressing the Council more than once every 45 days and a rule limiting comment to matters germane to items listed on the Council agenda.

While the Office of the Attorney General affirmed the principle that reasonable “time, place and manner” restrictions can be implemented in furtherance of a “significant governmental interest”, it noted that the fundamental purpose for meeting rules governing public comment is to “accommodate the speaker’s statutory right to address the public body, while ensuring the public body can maintain order and decorum at public meetings.” [citing *Ill. Att’y Gen. Pub. Acc. Op. 14-012* (2014)(noting that rule requiring 5 working days’ advance notice for member of public to comment at meeting was unreasonably restrictive)].

As for the 45 day prohibition, the Attorney General determined that the rationale of the Town of Normal for the rule does not explain why this restriction is necessary to protect the significant governmental interest of conducting meetings in an efficient manner. The Attorney General noted that there was no evidence that the Council was being overwhelmed at its meetings by numerous members of the public commenting on matters so that others did not have a chance to comment. Further, such a rule would limit a member of the public from commenting at consecutive meetings, even if an agenda item was being discussed and continued for several meetings.

As for the rule limiting public comment to matters germane to agenda items, the Attorney General concluded that because a public body can discuss matters at any meeting, even if they are not listed on the agenda for the meeting, a rule limiting the public to commenting only on agenda items would be unreasonable and impermissible, citing to its previous opinion on the issue:



OMA does not preclude members of a public body from “the consideration of items not specifically set forth in the agenda,” (5 ILCS 120/2.02(a)), 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.

As for the requirement that any citizen addressing the Council provide their “address and affiliation”, the Attorney General noted that it had previously opined that requiring speakers to state their home addresses prior to addressing a public body, violates section 2.06(g) of the Open Meetings Act and is impermissible. See *Ill.Att’y.Gen.Pub.Acc.Op.No.* 14-009 (2014)

For any questions or comments you might have regarding this newsletter, please feel free to contact:

Chicago Office

20 N. Wacker Drive, Ste. 1660 Chicago, IL 60606

T: (312) 984-6400

F: (312) 984-6444

Orland Park Office

15010 S. Ravinia Ave., Ste. 10 Orland Park, IL 60462

T: (708) 349-3888

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