

From: bctd84a@aol.com
To: Laura.Harter@ilag.gov
Cc: Robert.Pickrell@filippinilawfirm.com; Greg Jackson; Denise Rosenquist
Subject: Response to Long Grove's (Redacted) Answer: 2021-PAC-C-0134
Date: Tuesday, August 24, 2021 11:47:38 AM

August 24, 2021

Ms Laura S. Harter
Deputy Bureau Chief
Public Access Bureau-Office of the Illinois Attny Gen.
Springfield, IL

RE: Response to Village of Long Grove's (Redacted) Answer: 2021-PAC-C-0134

Ms Harter:

1. The Village's answer (including blaming Covid 19, and throwing its two past veteran Village managers under the bus) is no excuse for the Board's long-standing (pre-Covid 19) and knowing failure to conduct ongoing semi-annual reviews of its closed meeting minutes, etc. See No. 2014 PAC 28853, page 3, cautioning "**...the Board to meet semi-annually to review [its] closed session minutes...**" Emphasis added, as below.

2. On January 28, 2020 (at the very start of the U.S. Covid-19 pandemic and long before its Village manager resigned in October 2020), in No. 2014 PAC 28853, PAB instructed the Board "**to remedy [its] violation of the OMA**" and come into "**full compliance with OMA.**" This compliance included, as quoted above, the Board meeting semi-annually to review closed session minutes. This means any 60-day Section 2.06(d) grace period as to compliance and right to prevent public inspection tolled, on the Village's closed session records, March 29, 2020. Complainant can find no evidence at the Village's website that any such review or release of minutes or verbatim record (or any action related thereto in an open session) ever occurred before or after that date as required. If this were not enough, in a March 20, 2021 email, Complainant reminded the Village of PAB's 2020 findings (supplying it with an additional copy at that time), which email was acknowledged by the Village on March 23, 2021, thereby requiring Section 2.06(d) Board action based on this 'discovery' by May 22, 2021, which admittedly did not occur.

3. Furthermore, the Village Board may not go into closed session (or what it incorrectly terms Executive Session) pursuant to OMA Subsection 2(c)(11), until it "**finds**" in open session from the discussion "**that an action is probable or imminent**" (if not pending, and not just threatened or possible) applying a fixed standard to those terms. This admittedly was not done on June 8, 2021 (or ever as far as I know). Nor until June 8, 2021 did the Village come into any semblance of compliance with OMA Section 2a by citing "**to the specific exception contained in Section 2 of the [OMA] Act...**" This in turn was only done on June 8th in defense of Complainant's possible action here following his June 7th email, where it was never done before. In the instant case the Village simply cited; '2(c)(6) and 2(c)(11)', while the agenda (produced June 4, 2021) stated, "**EXECUTIVE SESSION: Personnel, Pending or Threatened Litigation**". Also see e.g., minutes of May 25, 2021 (with no Section 2 citation) versus June 8, 2021 (with citation). Even then, no due vote was recorded in open session or noted in the open meeting minutes for June 8th to allow the Village's final action, admittedly and unlawfully taken in closed session (approving a settlement counter-offer).

4. It is noteworthy, that when Complainant first inquired (on June 7, 2021) about the 'Threatened Litigation' scheduled for action on June 8th, he was told there was actually nothing to see. See email dtd 6/8/2021 fr. Bill Balling, Acting Village Mgr, re: FOIA request. Upon Complainant discovering otherwise, Complainant was then told only one matter (i.e., "Fountain Square") was involved where the parties at the time were in settlement negotiations (and not headed to litigation). Still later after receiving PAB's August 10, 2021 inquiry demanding June 8th records, the Village was forced to come clean by 'supplementing' its FOIA response to include a second previously undisclosed matter, but

this included a FOIA Subsection 7(1)(m) blanket denial to every record (redacted or not) that would in any way describe the controversy or disclose the identity of any other party(ies) to the dispute.

5. It is additionally noteworthy in footnote 4 of its response, the Village at length describes the Village President's law enforcement responsibilities. It concludes by admitting that the June 8th open meeting in question was closed **"...to allow the Village President to seek advice from and to assess the support or opposition of the Village Board [of Trustees] regarding settlement of the Violation."** These enforcement responsibilities may come as news to the Village President since the President told Complainant in his email dated March 23, 2021, that **"the Village Trustees and [he] are not law enforcement officers [and that the Complainant should] contact the Lake County Sheriff's Office regarding any perceived law enforcement matters."**

6. Had the Lake County Sheriff issued a citation in the case of Fountain Square or any other entity for a violation, that citation, as well as a description of the judicial proceedings related thereto, would be available at the Circuit Court Clerk's 'Public Access' website:

<https://circuitclerk.lakecountyiil.gov/publicAccess/html/common/index.xhtml> . This is not the case with the Village of Long Grove, which scrubs its website of all such information as far as Complainant can see. Clearly, the Village's OMA actions and inaction are calculated to exclude public participation, undermine the public's right to know, and prevent the public from witnessing the Village Board and its member's handling of most all matters in controversy, in contravention of OMA Subsection 2(c)(11), Section 2(e) and Section 2.06(d) strict statutory limitations.

7. This cover-up extends to public comments made pursuant to OMA Section 2.06(g) rules adopted by the Village, providing **"[a]ll such comments will ...be [acknowledged and] made available to the public on the Village's website."** See Section A3 of the rules:

https://www.longgroveil.gov/sites/default/files/fileattachments/village_board/meeting/packets/1650/01i_-_temporary_public_comment_rules_04092020.pdf. In fact, Complainant's comments were suppress; acknowledged only after he complained, but are now nowhere on the Village's website as far as he can determine. See e.g., June 22, 2021 email to the Village, Re: Written Public Comments - Philip Estates*, to which Complainant never received the courtesy of a Board response.

8. Village's instant response, misfeasance (admitted and otherwise) and, mixed messaging and terminology, defies the objective and intent of the OMA. This includes OMA phases such as, **"citizen's right to know", "people's business", "strictly construed", "openness required"**, etc. found therein. Clearly, the Village President and the Board's purpose, being the antithesis of the OMA, is to use OMA exemptions broadly and ignore limitations on secrecy so to place a perpetual black-out on controversy that might disturb their crafted public image, undermine their electability or credibility, or bring more public interest and scrutiny to their decisions and operations. One can also look to the Village's taxpayer funded newsletter (the 'Bridge') where the Village suppresses news and refuses to include op-ed or even letters to the editor public comment. This included putting a tight lid on any reporting of PAB's 2020 findings of OMA violations by the Village Board, which lasts until today. See: <https://www.longgroveil.gov/community/page/newsletters>

9. Further evidence of what the Complainant complains, is that nowhere was there any public disclosure or vote (recorded in open session) regarding this very matter, including to hire and to order counsel to answer PAB's August 10, 2021 investigation letter. Nor does the Agenda for the August 24, 2021 Village Board meeting make any mention. It is doubtful that the next issue of the Bridge 'newsletter' will either.

Wherefore, based on, a) the instant record, and b) Village's sandbagging, back-filling and stop me if you can attitude in this matter, only a binding opinion will cure its recalcitrance and lawbreaking.

This should include the Village being instructed to make immediately available for public inspection at its website, with notice to the public the reason therefore:

i) All minutes and verbatim recordings or transcripts of closed meetings where the Village Board failed

to act in strict compliance with 5 ILCS 120/2, 2(e), 2a or 2.06(d), and/or;

ii) All closed meeting minutes and verbatim recordings or transcripts of meetings prior to its March 20, 2021, 5 ILCS 120/2.06(d) discovery and the Village Board's 60-day failure to review.

iii) All other things the PAB deems appropriate under the circumstances.

Complainant herein incorporates his FOIA request, as otherwise may be required or necessary, for all such closed meeting minutes so forfeited.

Complainant further asks this response be made part of public comments for the August 24, 2021 Village Board Meeting.

Respectfully submitted with regards,
Phillip Goldberg

* Included the following request as here, to follow the law re: Special use permits, Ordinance 5-11-17, et seq.:

From: bctd84a@aol.com [Phil and Cynthia Goldberg]

"To: anne.kritzmire@longgroveil.gov; bobbie.oreilly@longgroveil.gov ; chris.borawski@longgroveil.gov ; jennifer.michaud@longgroveil.gov>; rita.oconnor@longgroveil.gov; chuck.nora@longgroveil.gov

Cc: bballing@longgroveil.gov ; billjacob@comcast.net

Subject: Second Request -- Denial of Philip Estates application is only option

Dear Trustees:

Once again we want to remind you that you have no discretion but to deny Philip Estates special use permit application (item 8, on the May 25, 2021 agenda). The owner has failed to establish all the necessary elements required by law (as outlined below) for such approval, and as such you "shall" deny its application until such time it does.

To approve this facially flawed, ill-conceived and incomplete application would not only be beyond your lawful authority, but also in our opinion will endanger the public and cause substantial injury to property values in the area, which the owner has failed to demonstrate otherwise as is its sole burden..."

c.c. Robt T. Pickrell, Esq.
Gregory Jackson, Long Grove FOIA Officer

-----Original Message-----

From: Harter, Laura

To: 'bctd84a@aol.com'

Cc: 'robert.pickrell@filippinilawfirm.com' ; Public Access

Sent: Fri, Aug 20, 2021 10:18 am

Subject: OMA Request for Review 2021-PAC-C-0134

Good morning:

Attached to this message is correspondence from the Office of the Attorney General's Public Access Bureau. If you have any questions, please contact me.

Very truly yours,

Laura S. Harter

Deputy Bureau Chief
Public Access Bureau
Office of the Attorney General
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