

[REDACTED]

Sent from my iPhone

Begin forwarded message:

From: Tim Holl <THoll@dewittcountyill.com>
Date: June 4, 2020 at 10:13:04 AM CDT
To: "cboggs@atg.state.il.us" <cboggs@atg.state.il.us>
Cc: Dan Markwell <DMarkwell@dewittcountyill.com>, DeeDee Rentmeister <DRentmeister@dewittcountyill.com>
Subject: OMA Requests for Review; 2020 PAC 63101, et al.

Mr. Boggs:

I have attached DeWitt County's response to your letter dated May 29, 2020 regarding Open Meetings Act complaints after a DeWitt County Board meeting on May 21, 2020. I am also attaching what is labeled in our response as Attachment 1, Attachment 3, and Attachment 4. Attachment 2 contains both an audio and video recording of the meeting and is far too large to attach to an email. In addition to this email, I am mailing you a copy of our response along with all attachments, addressed to:

Christopher Boggs
500 S. 2nd St.
Springfield, IL 62701

If you are located in the Chicago or Carbondale office let me know and I will mail the physical copies of our response to either of those addresses. Please contact me at (217) 935-7810 or at tholl@dewittcountyill.com for further correspondence regarding these complaints.

Timothy M. Holl

Assistant State's Attorney

FOIA Officer

DeWitt County

Ph: 217-935-7810

Fax: 217-935-7819



SAO Response.pdf
118.1kB



ATT00001.htm
219B



Attachment 3.pdf
89.9kB



ATT00002.htm
219B



Attachment 4.pdf
33.9kB



ATT00003.htm
219B



Attachment 1.pdf
65.6kB



ATT00004.htm
178B



**DEWITT COUNTY
STATE'S ATTORNEY'S OFFICE**

201 W. Washington St.
Clinton, IL 61727
Phone: (217) 935-7810
Fax: (217) 935-7819



Dan Markwell
State's Attorney

Timothy M. Holl
Asst. State's Attorney

John A. Hoblit
Asst. State's Attorney

To: Christopher Boggs
From: Timothy Holl
Date: June 2, 2020
Re: Open Meetings Act

Mr. Boggs:

I am writing to you on behalf of DeWitt County Board Chairman David Newberg in response to your letter concerning allegations that the DeWitt County Board violated the Open Meetings Act during its May 21, 2020 meeting received by Mr. Newberg on June 1, 2020.

Your letter asks Mr. Newberg to (1) address the allegations concerning the failure to access the May 21, 2020 meeting via a virtual platform, including the inability to connect to the meeting and/or audio disruptions during the meeting; (2) provide copies of the agendas, minutes, and recordings of the May 21, 2020 meeting; (3) address allegations concerning restrictions to public comment in connection with the May 21, 2020 meeting; and (4) provide a copy of any Board rules or policies governing public comment that were in effect at the time of the meeting. Each of these requests will be addressed in order below.

(1) On May 21, 2020 the Dewitt County Board held a virtual meeting via the video conferencing platform Zoom. This meeting was a regular, monthly Board meeting where usual county business was discussed. There was nothing extraordinary on the agenda for this meeting.

There were several ways to connect to this meeting and they were listed on the agenda for that meeting (see "Attachment 1"). It was possible to connect to the meeting on a computer using the link provided in the agenda. Additionally, a Meeting ID and Password for zoom were also given. The public could access the meeting on a mobile device using the One tap mobile option provided. Finally, the public could be connected to the meeting by calling one of the other numbers provided on the agenda and providing the Meeting ID and Password. A member of the public did not need a computer, an Internet connection, or the ability to successfully navigate zoom in order to virtually attend this meeting. All that was needed was a phone. The County Administrator reports that over 80 people were connected to the meeting through Zoom.

The methods of accessing this regular Board meeting were in compliance with the Open Meetings Act in light of the Governor's Executive Order 2020-07 and your office's guidance to

public bodies entitled "Guidance to Public Bodies on the Open Meetings Act and the Freedom of Information Act during the COVID-19 Pandemic." Normally, the Open Meetings Act requires a quorum of a public body to be physically present during a meeting. 5 ILCS 120/2.01. The Open Meetings Act does allow for some members of a body to appear remotely in certain circumstances, so long as a quorum of the body is physically present. 5 ILCS 120/7. However, Executive Order 2020-07 suspends those provisions of the Open Meetings Act and allows a public body to conduct business remotely. The Executive Order encourages public bodies to provide public access to their meetings, and DeWitt County did provide such access to the May 21, 2020 meeting. There is nothing about the method in which this meeting was held that violated the Open Meetings Act in light of Executive Order 2020-07.

Concerning the audio disruptions during the meeting, please see the recording of the meeting, which has is on a disc labeled "Attachment 2." This disc contains an audio file in M4A format and can be played on most major media programs. Additionally, the disc contains a video file in MP4 format, which also can be played on most major media programs. The recording did not start at the beginning of the meeting because the County Administrator did not know that Zoom would not automatically record. Once she realized the meeting was not recording, she took the steps necessary to start recording. The recordings on Attachment 2 begin during the public comment portion of the meeting (specifically during Aaron Kammeyer's comment). The ability to hear testimony is never significantly disrupted, despite some background noise throughout the meeting. There is a variety of noise that can be heard at certain points of the meeting, but the disruptions never significantly impact the ability to hear the meeting.

(2) A copy of the agenda for the May 21, 2020 meeting has been attached and labeled as "Attachment 1." An audio and video recording of the May 21, 2020 meeting has been attached and labeled as "Attachment 2." There were no closed portions of this meeting and no executive session. A draft of the minutes for the May 21, 2020 meeting has been attached and is labeled as "Attachment 3."

(3) The Open Meetings Act provides for public comments during meetings subject to rules established by the public body. 5 ILCS 120/2.06(g). DeWitt County has had an ordinance in place to address public comment to the County Board that has remained unchanged since 2015. DeWitt County Ordinances § 30.17. This section of the DeWitt County Ordinances, in relevant part, limits the length of time for any individual speaker to 5 minutes and limits the total time for public comment at any individual meeting to 30 minutes. Both time limits can be extended at the discretion the Chair of the County Board. Additionally, the Ordinance allows the Chair to curtail a speaker if they are repeating a comment that was previously made.

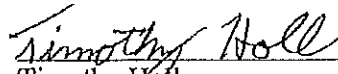
During the May 21, 2020 meeting, several speakers had signed up to speak to the board about an issue that was not on the May 21, 2020 agenda. The County Board was planning to hold a vote for a special use permit application on June 2, 2020 and several speakers wished to address the Board regarding either whether the permit should be granted or whether the vote should be held.¹ Despite the fact that neither of these issues were on the agenda and no board member had made any motions regarding this issue, the Chair allowed everyone to speak. The

¹ It is worth noting that at the start of the June 2, 2020 meeting, on motion of one of the County Board members, this vote was postponed to July 14, 2020.

Chair reminded individual speakers that the total time to speak would be 30 minutes and that lengthy comments could result in other speakers being denied the opportunity to speak. The Chair did not cut anyone off from speaking except for the last speaker. By the time the last speaker began to speak the 30 minutes had lapsed and the Chair was acting within the provisions of the County's ordinance and the Open Meetings Act when he cut the speaker off. In total, the Chair allowed approximately 47 minutes of public comment.

(4) A copy of the relevant ordinance that was referenced in section (3) of this letter is attached. It is labeled as "Attachment 4."

Sincerely,



Timothy Holl
Assistant State's Attorney
DeWitt County

DEWITT COUNTY BOARD AGENDA

MAY 21, 2020

6:00PM

DEWITT COUNTY BUILDING

Teleconference Call

Roll Call
Pledge and Invocation

Executive Session:

Approve County Board Minutes from APR 2020.

Persons to speak before the board.

Kathy Evans to address the board.
Aaron Kammeyer to address the board.
Roy Taylor to address the board.
Carl Woodruff to address the board.
Nathan Lippert to address the board.
Alaina Russell to address the board.
Terl & Matt Wilson to address the board.
Sharon Riddle to address the board.
Mary Pat Killian to address the board.
Patrick Ryan to address the board.
D J Martin to address the board.
Rhett Hilliard to address the board.
Chris Shaffer to address the board.
Renee Dworak to address the board.
John Klemm to address the board.
Betsy Shifflet to address the board.
Terry Husted to address the board.
Jamie Holland to address the board.

APPOINTMENTS:

Motion to appoint Greg Hale to the Wapella Fire Protection Dist. With term set to expire on the first Monday of May 2023.

Motion to appoint Janine Furman as trustee of the Waynesville fire protection dist. with term set to expire the first Monday in May 2023.

Motion to appoint Thomas Dean Cooper to the Clinton Fire Protection Dist. Board of Trustees with term set to expire on the first Monday in May 2023.

LAND USE: Report given by Mr. Ferguson. For discussion and possible action:
No recommendations.

PUBLIC SAFETY: Report given by Mr. Reece. For discussion and possible action:
Motion to adopt the Resolution for Referendum for the Inclusion of areas of DeWitt County within the Farmer City Community Fire Protection District into the County of DeWitt Ambulance District.

PROPERTY report given by Mr. Nimmo. For discussion and possible action:
No recommendations.

ROAD AND BRIDGE report given by Mrs. Tilley. For discussion and possible action:
Motion to approve the resolution to award the low bids as circled on the attached aggregate bid Tabs for County Motor Fuel Tax Maintenance, Section 20-00000-00-GM.

Motion to approve the resolution to award the low bids as circled on the attached aggregate bid tabs for township Motor Fuel Tax Maintenance, Section 20-__000-00-GM.

Motion to approve the resolution to award the low bids as circled on the attached bituminous materials bid tabs for County Motor Fuel Tax Maintenance, Section 20-00000-00-GM.

Motion to approve the resolution to award the low bids a circled on the attached bituminous materials bid tabs for Township Motor Fuel Tax Maintenance, Section 20-__000-00-GM.

Motion to approve Guardrail Inventory and HSIP Application by Cummins Engineering Corporation for Not to exceed \$6,150.00.

Marina report given by Mr. Wickenhauser
No recommendations.

Finance report given by Mrs. Redman.
Motion to pay all bills.
Motion to approve County Employee Health Insurance for 2020-2021.
Motion to approve Dental Insurance Renewal for 2020-2021.
Motion to approve Vision Insurance for 2020-2021
Motion to approve Coroner Salary for next 4 years.
Motion to approve Circuit Clerk Salary for the next 4 years.

Old and New Business. For Discussion and possible action:

Motion to approve letter to the Governor to re-open the County of DeWitt.

Motion to approve Cooperative agreement for the Emergency Management Agency of DeWitt County.

Motion to approve Democrat Judges as presented.

Motion to approve Republican Judges as presented.

Motion to approve Resolution to move Clintonia 2 and Clintonia 7 voting location to 100 N Jackson St. Clinton IL. (Christian Church).

Posted by Dana Smith, May 19, 2020 @ 3:00pm.

THIS MEETING WILL BE HELD VIA ZOOM

JOIN ZOOM MEETING

<http://zoom.us/j/4327127633pwd=RIZoc3Q1YVFIWJlvVVBNOdRjaUJFZx09>

Meeting ID: 432 712 7633

PASSWORD: 7G4RfQ

One tap mobile

+13126266799,,4327127633#,,1#,916633# US (Chicago)

+16468769923,,4327127633#,,1#,916633# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

Meeting ID: 432 712 7633

Password: 916633

Dewitt County Board Meeting

May 21, 2020

6:00pm

Meeting was called to order at 6:00pm by Chairman Newberg.

Roll was answered by Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Absent Pruser. Remote members Ritter, Tilley, Ennis, Houser, Matthews, Reece.

To Dana Smith

You are hereby directed to call a meeting of the DeWitt County Board. The purpose of said meeting is to conduct the business of the County.

Motion by Nimmo second by Tilley to approve April 2020 County Board Minutes. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion Carried.

Cathy Evans, Aaron Kammeyer, Nathan Lippert, Roy Taylor, Alaina Russell, Teri Wilson, Matt Wilson, Sharon Riddle, Mary Pat Killian, DJ Martin, Rhett Hillard, Chris Shaffer, John Klemm, Betsy Shifflet, Terry Husted, Jamie Holland, and Olivia Klemm Spoke to the board with concerns of having a virtual meeting for the June 2nd wind farm vote.

Motion by Newberg second by Redman to appoint Greg Hale to the Wapella Fire Protection Dist. With term set to expire on the first Monday of May 2023. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Newberg second by Redman to appoint Janine Furman as trustee of the Waynesville Fire Protection Dist. With term set to expire the first Monday in May 2023. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Newberg second by Ferguson to appoint Thomas Dean Cooper the Clinton Fire Protection Dist. Board of Trustees with term set to expire on the first Monday in May 2023. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Reece second by Ferguson to adopt the Resolution for Referendum for the inclusion of areas of DeWitt County within the Farmer City Fire Protection District into the County of DeWitt Ambulance Dist. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Tilley second by Ritter to approve the resolution to award the low bids as circled on the aggregate bid tabs for County Motor Fuel Tax Maintenance, 20-00000-00-GM. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Tilley second by Houser to approve the resolution to award the low bids as circled on the aggregate bid tabs for township Motor Fuel Tax Maintenance, 20-__000-00-GM. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Tilley second by Ritter to approve the resolution to award the low bids as circled on the aggregate bituminous material bid tabs for County Motor Fuel Tax Maintenance, 20-00000-00-GM. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Tilley second by Houser to approve the resolution to award the low bids as circled on the aggregate bid tabs for bituminous materials for township Motor Fuel Tax Maintenance, 20-__000-00-GM. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Houser, Matthews, Newberg, Nimmo. Present Ferguson. Motion carried.

Motion by Tilley second by Nimmo to approve Guardrail Inventory and HSIP Application by Cummins Engineering Corporation for not to exceed \$6,150.00 Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Redman second by Tilley to pay all bills. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Redman second by Ferguson to approve County Employee Health Insurance for 2020-2021 Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Redman second Nimmo to approve Dental Insurance Renewal for 2020-2021. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Redman second Ferguson to approve Vision Insurance Renewal for 2020-2021. Aye: Redman, Reece, Ritter, Tilley, Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion carried.

Motion by Redman second by Wickenhauser to amend Coroner Salary motion for the next 4 years to increase of \$500.00 the first year, no increase the second year, \$500.00 the third year and \$1000.00 the fourth year. Aye Redman, Reece, Ritter, Wickenhauser, Ferguson, Newberg, Nimmo. Nay: Motion carried. The Salary will be 12-1-2020 \$21,000.00, 12-1-2021 \$21,000.00, 12-1-2022 \$21,500.00, 12-1-2023 \$22,500.00.

Motion by Redman second by Tilley to vote on Motion as amended: Aye: Redman, Reece, Ritter, Wickenhauser, Ferguson, Newberg, Nimmo Nay: Tilley, Ennis, Houser, Matthews. Motion carried.

Motion by Redman second by Nimmo to approve Circuit Clerk Salary for the next 4 years. With the first year, the second year, the third year, and the fourth year. Aye: Redman, Reece, Ritter, Tilley Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion Carried.

Motion by Newberg second by Ferguson to approve writing a letter to the Governor to re- open the County of Dewitt. Aye: Redman, Reece, Ritter, Tilley Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion Carried. 12-1-2020 \$59,300.00, 12-1-2021 \$59,300.00, 12-1-2022 \$60,300.00, 12-1-2023 \$61,300.00.

Motion by Newberg second by Redman to approve cooperative agreement for the Emergency Management Agency of DeWitt County. Aye: Redman, Reece, Ritter, Tilley Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion Carried.

Motion by Reece second by Nimmo to approve Democrat Election judges as presented. Aye: Reece, Ritter, Tilley Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Present Redman Motion Carried.

Motion by Newberg second by Ferguson to approve Republican Election judges as presented. Aye: Redman, Reece, Ritter, Tilley Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion Carried.

Motion by Newberg second by Redman to approve Resolution to move Clintonia 2 and Clintonia 7 voting location to 100 N. Jackson St. Clinton IL (Christian Church). Aye: Redman, Reece, Ritter, Tilley Wickenhauser, Ennis, Ferguson, Houser, Matthews, Newberg, Nimmo. Motion Carried.

Motion by Tilley second by Nimmo to adjourn @ 7:36pm with all in favor.

(G) Read correspondence from various government bodies;

(H) Report of the following committees:

- (1) Land Use and Development;
- (2) Public Safety;
- (3) Property;
- (4) Road and Bridge;
- (5) Marina; and
- (6) Finance.

(I) Old business;

(J) New business; and

(K) Motion to adjourn.

(Prior Code, § 30.21) (Motion carried 12-17-1984; Ord. passed 1-17-1991; Ord. passed 2-13-1997; Ord. passed 12-4-2006)

§ 30.17 PUBLIC COMMENTS TO THE BOARD AND ITS COMMITTEES.

(A) If a group or organization wishes to address the Board or its committee only one person, chosen by the group/organization shall speak for the group or organization.

(B) The person speaking during the public comment period shall provide his or her name.

(C) The person speaking before the Board or committee is limited to five minutes. This time may be extended at the discretion of the Chair.

(D) The public comment period shall be limited to 30 minutes at each Board or committee meeting. This time may be extended at the discretion of the Chair.

(E) The Chair may curtail a speaker during the public comment period if the speaker is repeating the same public comment made by that speaker or other speakers to the Board or committee, regardless of if the repetition occurs at the same or previous meetings.

(F) Any person may present writings or supporting documents and is encouraged to provide at least enough copies for all Board or committee members present, as well as a copy for the County Clerk.

(G) *CHAIR* is defined as the Chairman of the DeWitt County Board for full Board meetings or the Chairman of a specific committee for DeWitt County committee meetings. In the event that the Chair is not present, the person acting as Chair shall exercise the discretion contained within this section.

(Res. 2011-5A, passed 9-22-2011; Res. passed 2-19-2015)

§ 30.18 CONFLICT WITH ROBERT'S RULES OF ORDER.

The County Board of DeWitt County, Illinois shall adhere to the rules of parliamentary procedure as contained in Robert's Rules of Order, with the most recent edition of Robert's Rules being controlling, and that in the event of a conflict with any established law or ordinance such law or ordinance will take precedence over Robert's Rules of Order.

(Res. passed 2-19-2015)