

## **Linda Mitchell**

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**From:** Julie Arvia [REDACTED]  
**Sent:** Friday, August 30, 2019 4:41 AM  
**To:** Ken Blackburn; Dave Macek; Craig Maksymiak; Pam Kohlbacher; Denis Moore; Brian Mulheran; Joe Vlosak  
**Cc:** James Randall; Linda Mitchell  
**Subject:** Additional OMA Questions  
**Attachments:** Additonal Violations Letter - Final.pdf; Agendas-FYE-4-30-19.pdf; Minutes-FYE-4-30-19.pdf; Minutes May 16, 2019.pdf; Agenda May 16, 2019.pdf

Friday August 30<sup>th</sup>, 2019

Dear President Blackburn and the Board of Commissioners:

I would like to thank you again for your passage of resolution 19-07-321. Bringing consistency to future board appointments is what I hoped for when I wrote to Commissioner Vlosak on June 12, 2019. I believe this resolution is a good first step towards that goal.

There are, however, some additional issues that I believe need to be explored further. On July 23, 2019 during the Special Meeting, Commissioner Maksymiak asked how much was incurred in legal fees due to the issue regarding the recent Park Board Appointment. This was after Executive Director Randall voiced his disappointment when residents choose to communicate at this level when the Park District is “open to input and responsive to requests”. He stated the potential cost could exceed \$1,000.00 in legal fees alone, notwithstanding staff costs.

At the Board meeting on June 20, 2019, I specifically asked Commissioner Macek (FSPD OMA/FIOA Officer) if it was an issue that I didn't have the opportunity to speak on a potential policy for vacancies prior to the appointment because it wasn't on the agenda? Was that a violation of OMA? He didn't have an answer for me at that time, and I asked him to get back to me. When I didn't hear back from Commissioner Macek or any other representative of the FSPD in regards to the OMA question posed at the June 20<sup>th</sup> meeting, I sent the Request for Review to the Attorney General on July 8, 2019.

I am not sure how much more direct I could have been by asking a question during the Board meeting regarding the OMA. Executive Director Randall was not present at the June 20, 2019 meeting so the question was directed to the other OMA/FOIA Officer Commissioner Macek. I should not have to apologize for exercising my legal right to ask for a Request for Review with the Attorney General. The board had ample time to respond to my question, and I only sent my request because I received no follow up from the commissioner or any park district representative after 10 business days regarding the question.

Commissioner Maksymiak's question made me reexamine the special meeting agenda, which included item B relating to the purchase of vehicles. I waited until the minutes became available from the July 18, 2019 meeting to see that the purchase of vehicles, not to exceed \$114,500.00, had been voted on and passed during that meeting. This item, however, did not appear on the July 18, 2019 agenda.

During the public comments at the August 15, 2019 board meeting I asked why item B was on the agenda for the Special Meeting on July 23, 2019. Executive Director Randall confirmed because it had not been on the agenda for the July 18, 2019 meeting. Until the Special Board Meeting on July 23, 2019, I did not realize there may have been additional failures to comply with the Open Meetings Act. I believed it was just the Park Board

Appointment where a violation had occurred. I am asking you to review the list at the end of this document where it appears that there were additional incidents of motions made on items that were not on agendas during the 2019 fiscal year, as well as the May 16, 2019 board meeting.

As stated on the OMA – Request for Review by Public Access Counselor (PAC) form:

*\*A Request for Review usually must be filed within 60 calendar days of the date of alleged violation of OMA. However, if facts concerning the violation are not discovered within the 60-day period but are discovered at a later date by a requester utilizing reasonable diligence (not exceeding 2 years after the alleged violation), a Request for Review may be filed within 60 days of the discovery of the alleged violation. The extended period for filing a Request for Review applies only to violations occurring at meetings on or after August 19, 2015.*

According to the above paragraph I still have time to file a formal request if need be, for review on the additionally discovered potential violations. It's unfortunate that it was implied my actions were a waste of tax payer money when the board was given ample opportunity to respond, and by all accounts my request may have stopped what seems to be a pattern of more than one inadvertent failure to comply with Section 2.02 (c) of the Open Meetings Act by the board.

The act also states:

(5 ILCS 140/1) (from Ch. 116, par. 201) Sect.1

The General Assembly recognizes that this Act imposes fiscal obligations on public bodies to provide adequate staff and equipment to comply with its requirements. The General Assembly declares that providing records in compliance with the requirements of this Act is a primary duty of public bodies to the people of this State, and this Act should be construed to this end, fiscal obligations notwithstanding.

After consulting counsel for the Board Appointment issue, you corrected without prompting the failure to comply with OMA in regards to the vehicle purchases from the July 18<sup>th</sup> board meeting that also was not on the agenda. If you were aware of that error, it is possible or even likely that you also became aware of other similar errors that have occurred over the prior and current fiscal year. It is disheartening to me that the FSPD would try to make a resident feel bad due to legal fees that were incurred due to mistakes made by you in not following the law, especially when an additional violation occurred after the Board Appointment issue. The open Meetings act exists to protect both the public as well as the public body.

In addition, I would like to know if the Budget meetings on February 21, 2019 at 7 pm and March 21, 2019 at 7 pm needed to have an agendas & minutes posted. Also, please direct me to where I can find the approved minutes for the following meetings of the current fiscal year - May 16, 2019; June 20, 2019; July 18, 2019; July 23, 2019. As I am sure you know they are to be posted 10 days after the approval of such minutes by the public body. I used to find them on the Archived Meetings and Agendas section of the website, but they were not there and there has been no mention of IT issues which would have prevented them from being posted.

(5 ILCS 120/2.06) (from Ch. 102, par. 42.06)

Sec. 2.06. Minutes; right to speak.

(a) All public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording. Minutes shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the public body recorded as either present or absent and whether the members were physically present or present by means of video or audio conference; and

(3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

(b) A public body shall approve the minutes of its open meeting within 30 days after that meeting or at the public body's second subsequent regular meeting, whichever is later. The minutes of meetings open to the public shall be available for public inspection within 10 days after the approval of such minutes by the public body. Beginning July 1, 2006, at the time it complies with the other requirements of this subsection, a public body that has a website that the full-time staff of the public body maintains shall post the minutes of a regular meeting of its governing body open to the public on the public body's website within 10 days after the approval of the minutes by the public body. Beginning July 1, 2006, any minutes of meetings open to the public posted on the public body's website shall remain posted on the website for at least 60 days after their initial posting.

Until recently, I had limited knowledge of the Open Meetings Act. I didn't have any professional guidance, nor did I have any prior board experience. If I had, I certainly would have brought this to your attention sooner. My sole intent in making these requests is to help ensure that all requirements as outlined by the OMA are followed completely. I believe this aligns with district's goal of being 100% transparent in all they do.

The required OMA/FOIA training of department heads and re-training of all Commissioners are good steps. With more vigilance going forward, noncompliance issues with the Open Meetings Act hopefully will no longer be a concern.

I look forward to your response to the other potential OMA violations, my question regarding the budget meetings, and where on the website I can find the approved minutes of the listed meetings.

Sincerely,  
Julie Arvia

**Potential violation identified include:**

<b><u>Fiscal Year 2019:</u></b>	<b><u>\$ amount associated if applicable</u></b>
<b><i>May 17, 2018</i></b>	
Motion #18-1368	\$1,000.00
<b><i>June 21, 2018</i></b>	
Motion #18-1376	\$ 750.00
<b><i>July 19, 2018</i></b>	
Motion #18-1383	\$0.00
<b><i>September 20, 2018</i></b>	
Motion #18-1394	\$24,500.00 & \$13,250.00
Motion #18-1395	Lease

**October 18, 2018**

Motion #18-1404 \$0.00

**December 3, 2018**

Motion #18-1413 \$11,800.00

**January 17, 2019**

Motion #19-1421 \$12,000.00

**February 21, 2019**

Motion #19-1430 \$ 7,000.00

Motion #19-1431 \$18,000.00

**March 21, 2019**

Motion #19-1438 \$0.00

**April 18, 2019**

Motion #19-1445 \$40,000.00

**10 out of 12 meetings in FY19 had potential OMA violations totally \$127,300.00**

**Fiscal Year 2020:**

**\$ amount associated if applicable**

**May 16, 2019**

Motion #19-1459 \$? -Transfer of funds in excess of Corporate fund

Motion #19-1460 \$0.00 **Rectified on 7-23-19**

**July 18, 2019**

Motion #19-1476 \$114,500.00 **Rectified on 7-23-19**

**Julie Arvia**

