



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

January 11, 2021

Via electronic mail

The Honorable Maryalice Wu
City of Urbana Electoral Board
400 South Vine Street
Urbana, Illinois 61801
mwu@urbanailinois.us

RE: OMA Request for Review – 2021 PAC 66324

Dear Ms. Wu:

The Public Access Bureau has received the enclosed Request for Review in which Mr. Christopher Hansen alleges that the City of Urbana Electoral Board (Board) violated the Open Meetings Act (OMA) (5 ILCS 120/1 *et seq.* (West 2018)) at its December 7, 2020, December 8, 2020, and December 9, 2020, meetings. We have determined that further inquiry is warranted.

In his Request for Review, Mr. Hansen alleges that the Board posted the final agenda for the December 7, 2020, meeting less than 48 hours before the meeting began, and did not post any agendas for the December 8, 2020, and December 9, 2020, meetings. This office construes Mr. Hansen's contentions as alleging violations of section 2.02(a) of OMA. 5 ILCS 120/2.02(a) (West 2018). Please provide this office with a written explanation addressing Mr. Hansen's allegations, describing when and where the Board posted its agenda for the December 7, 2020, meeting and providing copies of the agenda(s). If the Board posted multiple versions of the agenda, please clarify when it posted each version. Please also explain whether the meetings on December 8, 2020, and December 9, 2020, were reconvened meetings, and, if so, (1) what times the reconvened meetings began, (2) whether an announcement of the time and place of the reconvened meeting(s) was made at the original meeting, and (3) whether there were any changes made to the agenda for the reconvened meetings. If the Board prepared agendas for the December 8, 2020, and December 9, 2020, meetings, please provide copies of those agendas and explain where and when those agendas were posted.

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Mr. Hansen also alleges that the Board violated OMA by not conducting the period for public comment according to its established and recorded rules. He contends that at the December 8, 2020, meeting, the Board prevented him from completing his public comments and that three other individuals were not permitted to speak at all.¹ This office construes these arguments as alleging violations of section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2018)). In your written response, please address Mr. Hansen's allegations. Please provide a copy of the rules for public comment that were enforced for the December 7, 8, and 9, 2020, meetings and explain when those rules were established and recorded. Please also provide the minutes (draft form, if necessary) from the December 7, 8, and 9, 2020, meetings, and the verbatim recordings of the open sessions of those meetings.

As required by section 3.5(b) of the Open Meetings Act (5 ILCS 120/3.5(b) (West 2018)), please provide this information to our office within 7 working days after receipt of this letter. As we conduct our review of this matter, we will notify you if we need to review additional records or information. You have the option under the Act to provide a written response to these allegations in addition to the requested materials. That response may take the form of a letter, brief or memorandum. Please note that under the Act, we are required to forward a copy of any response from a public body to the requester and provide the requester an opportunity to reply. 5 ILCS 120/3.5(c) (West 2018). The Act also permits a public body to provide a copy of a response with confidential information redacted for release to the requester. **If you claim that any portion of your written response is confidential, please send two versions of your response letter: a complete copy for this office's confidential review and a redacted version suitable for this office to forward to the requester.** If you believe that other documents or information would be helpful to us as we review the issues, you may submit additional records or affidavits.

If you have any questions or would like to discuss this matter, please contact me at LHarter@atg.state.il.us or at (217) 524-7958.

Very truly yours,



LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

Attachment

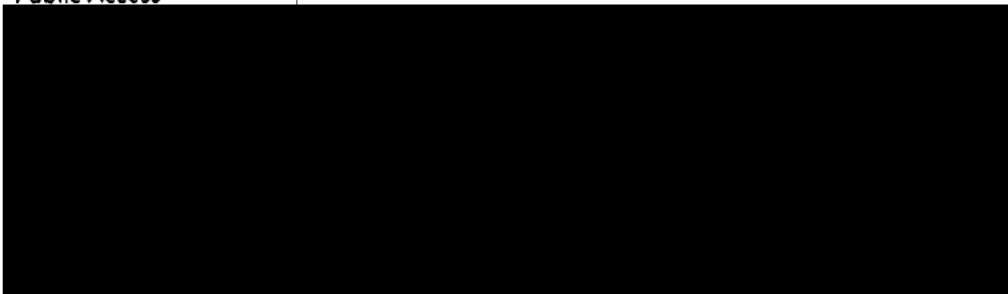
¹A similar allegation has been raised in Request for Review 2020 PAC 65997.

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cc: *Via electronic mail*
Mr. Christopher Hansen
corruptcu@gmail.com

Samuelson, Dolores

From: Public Access
Sent: Monday, January 4, 2021 11:19 AM
To: Public Access
Subject:
Attachments:



66324 Initial Docs

From: Christopher Hansen <corruptcu@gmail.com>
Sent: Monday, January 4, 2021 3:22 AM
To: Public Access <PAccess@atg.state.il.us>
Subject: 2020-12-07 Urbana Electoral Board OMA Violations Request for Review

Public Access Counselor Pratt,

I am writing to formally request a review of Open Meetings Act violations by the Urbana Electoral Board. My request is attached, titled "2020-12-07 Urbana Electoral Board OMA Violations Request for Review.pdf". A number of supporting files are also included, and referenced within my request.

I appreciate your careful consideration in this matter.

Thank you,
Christopher Hansen

Public Access Counselor Pratt,

I am writing to formally request that your office review the actions of Urbana Electoral Board and Chair Maryalice Wu, regarding the Electoral board meetings held on December 7th, 8th, and 9th, 2020. To my knowledge, meetings were held at the following times:

December 7: 1:30pm

December 8: 9:00am

December 8: 5:30pm

December 9: 5:00pm

The Urbana City website provides a number of documents and videos related to the meetings here:

<https://www.urbanailinois.us/node/9003>

<https://www.urbanailinois.us/node/9009>

The meetings were held in-person, in the City Council chambers. However, there existed no physical access whatsoever for the general public to attend the meeting. Therefore, the only means for public participation was via the Zoom conferencing app (also accessible by telephone).

Attached, please find a copy of Urbana City Code Chapter 2, Article I, Section 2-5 (passed by Council on October 12th, 2020). This part of the Urbana City Code that provides the rules and time limits for public input during virtual meetings. I am also including a copy of Urbana's long-held meeting rules, Section 2-4, which have not been changed. The City has not attempted to define "virtual meeting" in their new ordinance, and it is not clear what section of City Code they intended to apply to these Electoral Board meetings. It seems to me that the Electoral Board meetings were clearly not virtual meetings, therefor Section 2-4 should apply, but for the purpose of my complaint, I'm not sure it matters.

Maryalice Wu and the Electoral Board have violated the Illinois Open Meetings Act in multiple ways:

1) Maryalice Wu and the Electoral Board violated the OMA by not properly posting meeting notices.

The initial meeting on December 7th at 1:30pm had no fewer than 3 different agendas. I have attached those agendas to this request:

City of Urbana December 7th 2020 Electoral Board Hearing Agenda.pdf (posted on December 4th)

City of Urbana December 7th 2020 Electoral Board Hearing Agenda - Amended.pdf (replaced the above agenda on December 5th)

Revised_Amended_Agenda_2020-12-07-10am.pdf (was not made available to the public until after the December 7th meeting)

The first meeting agenda gives some indication that the Electoral Board would not be following the established and recorded public input rules in the City Code. The second agenda promptly removed that notation. The third agenda (created at 10:06am on December 7th), which was not made available to the public any time before the December 7th meeting, added that note back in, plus several additional agenda items, including "Amend the Agenda".

The Electoral Board did not properly post meeting notice 48 hours before their meetings. Writing "Amenda the Agenda" within an agenda that is not publicly posted does not ameliorate this failure, but instead makes a joke of the Open Meetings Act.

Furthermore, the meetings held on December 8th at 5:30pm, and December 9th at 5:00pm, were never publicly posted in any way. They were never posted on the City website, and notice was never sent out through the City's media contact list.

2) Maryalice Wu and the Electoral Board violated the public input provision of the open meetings act, which states, "Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body."

As noted in two variants of the meeting agendas, there seems to have been an attempt to bypass the established and recorded public input rules in the Urbana City Code by simply having a City staff member make an in-line note in the agenda.

First, the intention to vote on and adopt new public input rules was not properly posted as previously mentioned.

Second, adopting a change to public input rules by having a staff member indicate such a change in-line with the agenda item "Public Participation" is not a proper way to adopt new rules. Neither UCC Section 2-4 or 2-5 allow for this.

Wu therefore violated the Open Meetings Act by not following the established and recording public input rules of the City of Urbana. She did so by reducing individual speaking time from 5 minutes to 3 minutes, and total public input time from 2 hours to 30 minutes. As a result, multiple members of the public were cut short while speaking, and multiple other members of the public were not able to speak at all.

I was personally muted by Wu at the December 8th evening meeting when I had not yet finished speaking.

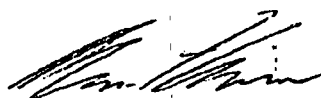
I have attached emails from 3 community members (Rita Conerly, Beau Barber, and Grace Walworth) who wished to speak at the Electoral Board meeting on the evening of December 8th, but were not allowed to.

Allowing members of the public to speak for the established and recorded 5 minutes would not have disrupted the business of the Electoral Board. Allowing every member of the public who wished to speak the ability to do so would not have disrupted the business of the Electoral Board.

The very nature of the business of an Electoral Board, which deals exclusively with the public's participation in their own government, is suggestive of an extremely high level of public interest and participation. There was no technical or practical limitation that provided for the obstruction of public input practiced by Maryalice Wu and the Electoral Board. In fact, it seems City staff and the Board went out of their way to attempt to establish more limiting rules rather than simply following the established rules. No attempt at explaining why public input should be snubbed was made, and I therefor conclude that the effort was made purely out of contempt for the public's right to participate at government meetings and a desire to silence public opinion.

I thank you for your careful review of this matter.

Regards,



Christopher Hansen, January 4th, 2020



CITY OF
URBANA

ELECTORAL BOARD HEARING

DATE: Monday, December 7, 2020
TIME: 1:30 P.M.
PLACE: City Council Chambers, 400 South Vine Street, Urbana, IL 61801

A G E N D A

***Due to the Governor Pritzker and Mayoral Emergency Covid-19 Orders, masks must be worn and social distancing observed during this proceeding.**

A. CALL TO ORDER

B. ROLL CALL

C. PUBLIC PARTICIPATION

***Public Comments should be conducted in accordance to Urbana City Code section 2-5 except for the following: comments will be limited to three minutes per speaker, public comment will total no more than 30 minutes.**

D. PUBLIC HEARING

1. Appointment of Hearing Officer
2. Case Called (Note: No Evidence will be taken on December 7, 2020)
 - a. Case No. 2020-1 (Langendorf Objection to Jones III Election Petition)
 - b. Case No. 2020-2 (Williams Objection to McDonald Election Petition)
 1. Appearance Noted
 2. Acknowledgment of Receipt of Notices by Parties

E. OUTLINE OF PROCEEDINGS

1. The Presentation of Cases will be in the Following Order:
 - a. Opening Statement
 - *Objector
 - *Candidate
 - b. Case Presentation
 - *Objector
 - *Candidate
 - c. Rebuttal Testimony
 - *Objector
 - *Candidate
 - d. Closing Argument
 - *Objector

*Candidate

2. Consideration of Case by Board (when hearing is completed)
3. Vote on Tentative Decision when Board has Completed its Deliberation Subject to Formal Entry of Final Written Decision
4. Adoption of Final Written Decision

F. DISCUSSION BY BOARD OF PROPOSED SCHEDULE

G. RECESS UNTIL FURTHER NOTICE BY THE BOARD

(Note: The Board will continue to reconvene and schedule future meeting dates during each meeting as required with no additional notice.)

Persons with disabilities needing special services or accommodations for this meeting should contact the City of Urbana's Americans with Disabilities Coordinator at 384-2366.



CITY OF
URBANA

ELECTORAL BOARD HEARING

DATE: Monday, December 7, 2020
TIME: 1:30 P.M.
PLACE: City Council Chambers, 400 South Vine Street, Urbana, IL 61801

AMENDED AGENDA

***Due to the Governor Pritzker and Mayoral Emergency Covid-19 Orders, masks must be worn and social distancing observed during these proceedings.**

A. CALL TO ORDER

B. ROLL CALL

C. PUBLIC PARTICIPATION

1. *Public input via Zoom

D. PUBLIC HEARING

1. Appointment of Hearing Officer
2. Case Called
 - a. Case No. 2020-1 (Langendorf Objection to Jones III Election Petition)
 - b. Case No. 2020-2 (Williams Objection to McDonald Election Petition)
 1. Appearance Noted
 2. Acknowledgment of Receipt of Notices by Parties

Adoption of Rules by Board

E. ADOPTION OF RULES BY BOARD

F. OUTLINE OF PROCEEDINGS

1. The Presentation of Cases will be in the Following Order:
 - a. Opening Statement
 1. Objector
 2. Candidate
 - b. Case Presentation
 1. Objector
 2. Candidate
 - c. Rebuttal Testimony
 1. Objector
 2. Candidate

- d. Closing Argument
 1. Objector
 2. Candidate
2. Matters under consideration by Board (when hearing is completed)
3. Vote on Tentative Decision when Board has Completed its Deliberation Subject to Formal Entry of Final Written Decision
4. Adoption of Final Written Decision

G. DISCUSSION BY BOARD OF PROPOSED SCHEDULE

H. RECESS UNTIL FURTHER NOTICE BY THE BOARD

(Note: The Electoral Board may recess the meeting and hearing and reconvene the same to one or more future meeting dates as required with no additional notice.)

The Electoral Board meeting and hearing will be conducted as a hybrid meeting and hearing pursuant to 5 ILCS 120/7. The members of the Electoral Board, candidates, objectors, their respective legal counsel (if any), and the City Attorney will be present in the City Council Chambers for the hearing. The Electoral Board's outside retained legal counsel may attend in person or by Zoom Webinar as the circumstances may dictate.

***Due to the Governor Pritzker and Mayoral Emergency Covid-19 Orders, the Urbana City Council Chambers will be not be open to the public during this proceeding. Public Comments will be received via Zoom Webinar. You may watch the meeting on streaming services, or on Urbana Public Television, or attend via Zoom.**

You are invited to a Zoom webinar.

When: Dec 7, 2020 01:30 PM Central Time (US and Canada)

Topic: Electoral Board Hearing

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85913206923>

Or iPhone one-tap :

US: +13126266799,,85913206923# or +19292056099,,85913206923#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592 or +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833

Webinar ID: 859 1320 6923

International numbers available: <https://us02web.zoom.us/j/85913206923>

Persons with disabilities needing special services or accommodations for this meeting should contact the City of Urbana's Americans with Disabilities Coordinator at 384-2366.



DATE: Monday, December 7, 2020
TIME: 1:30 P.M.
PLACE: City Council Chambers, 400 South Vine Street, Urbana, IL 61801

**REVISED AMENDED
AGENDA**

***Due to the Governor Pritzker and Mayoral Emergency Covid-19 Orders, masks must be worn and social distancing observed during these proceeding.**

A. CALL TO ORDER

B. ROLL CALL

C. AMEND THE AGENDA

D. ADOPTION OF RULES BY BOARD

E. APPOINTMENT OF HEARING OFFICER

F. PUBLIC PARTICIPATION

1. *Public comment via Zoom. Except as hereinafter provided, the established and recorded rules for public comment pursuant to Section 2.06(g) of the Open Meetings Act (5 ILCS 120/2.06(g)) shall apply except that the total time allocated to public comment shall be 30 minutes and each speaker shall be permitted to speak no longer than three (3) minutes

F. PUBLIC HEARING

1. Case No. 2020-1 (Langendorf Objection to Jones III Election Petition)
 - a. Appearance Noted
 - b. Acknowledgment of Receipt of Notices by Parties
 - c. Follow Outline of Proceedings (Section F)
2. Case No. 2020-2 (Williams Objection to McDonald Election Petition)
 - a. Appearance Noted
 - b. Acknowledgment of Receipt of Notices by Parties
 - c. Follow Outline of Proceedings (Section F)

F. OUTLINE OF PROCEEDINGS

1. The Presentation of Cases will be in the Following Order:
 - a. Preliminary Motions
 - (1) Objector
 - (2) Candidate

b. Opening Statement

- (1) Objector
- (2) Candidate

c. Case Presentation

- (1) Objector
- (2) Candidate

d. Rebuttal Testimony

- (1) Objector
- (2) Candidate

d. Closing Argument

- (1) Objector
- (2) Candidate

2. Matters under consideration by Board (when hearing is completed)

3. Vote on Tentative Decision when Board has Completed its Deliberation Subject to Formal Entry of Final Written Decision

4. Adoption of Final Written Decision

G. DISCUSSION BY BOARD OF PROPOSED SCHEDULE IF NEEDED

H. RECESS, IF NECESSARY, UNTIL FURTHER NOTICE BY THE BOARD

(Note: The Electoral Board may recess the meeting and hearing and reconvene the same to one or more future meeting dates as required with no additional notice.)

The initial Electoral Board meeting and hearing will be conducted as a hybrid meeting and hearing pursuant to 5 ILCS 120/7. The members of the Electoral Board, candidates, objectors, their respective legal counsel (if any), and the City Attorney may be present in the City Council Chambers for the hearing. The Electoral Board's outside retained legal counsel may attend in person or by Zoom Webinar as the circumstances may dictate. Any reconvened hearing of the Board after recess will be conducted via Zoom only.

***Due to the Governor Pritzker and Mayoral Emergency Covid-19 Orders, the Urbana City Council Chambers will be not be open to the public during this proceeding. Public Comments will be received via Zoom Webinar. You may watch the meeting on streaming services, or on Urbana Public Television, or attend via Zoom.**

You are invited to a Zoom webinar.

When: Dec 8, 2020 09:00 AM Central Time (US and Canada)

Topic: Electoral Board Hearing

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85913206923>

Or iPhone one-tap :

US: +13126266799,,85913206923# or +19292056099,,85913206923#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592 or +1 253 215 8782 or +1 346
248 7799 or +1 669 900 6833

Webinar ID: 859 1320 6923

International numbers available: <https://us02web.zoom.us/j/85913206923>

Persons with disabilities needing special services or accommodations for this meeting should contact the City of Urbana's Americans with Disabilities Coordinator at 217-384-2366.

DRAFT

**RULES OF PROCEDURE ADOPTED BY THE CITY OF URBANA
ELECTORAL BOARD FOR THE HEARING AND PASSING UPON
OBJECTIONS TO NOMINATING PAPERS OF CANDIDATES
DECEMBER 2020**

Preamble. The purpose of these rules is to set forth succinctly a fair, orderly and efficient process for the Electoral Board of the City of Urbana ("Board") to consider and rule on objections to election petitions and such other matters provided for by statute.

Rule 1. **Appearance.** Appearance by a candidate or objector at the initial hearing may be by Zoom, unless the candidate, objector, or their counsel follows the instructions on the Revised Amended Agenda to attend the meeting in person. Any reconvened hearing of the Board after recess will be conducted via Zoom only.

Failure of the candidate or objector to appear at the time and date scheduled by the Board without good cause shown shall be grounds for striking their petition objections or sustaining such objection upon a showing that such objections, if taken as true, would be sufficient to require removal of such candidate.

Rule 2. **Filing of Telephone Numbers and Email.** All parties are obliged to file with the Board, at the time appearance is first made, a telephone number or numbers and email addresses for notification to the party and the party's counsel, if any, of any matter requiring notice in these proceedings. Telephone numbers for fax transmittals shall also be given by each party if a fax is available to the party. Telephone numbers are for at least the time periods 8:00 a.m. to 8:00 p.m. Any such telephone shall be reasonably available for receipt of such notification during the course of these proceedings. Additionally, parties and their attorneys, if any, shall provide email addresses which are monitored regularly, at least during the times indicated in this Rule.

Rule 3. **Hearing Date.** On the date set for commencement of the hearing, which shall be the date of the "call" unless the Board otherwise specifies, both the objector and the candidate will be required to proceed with the hearing as required by the Board. The parties shall not be granted a continuance or resetting by the Board, except for good cause shown, provided however that the Board may in its discretion continue or reset a matter in its discretion.

Rule 4. **Electoral Board.** The Board shall generally conduct all hearings and take necessary action to avoid delay, to maintain order, to ensure substantial compliance with all notice requirements, and to ensure the development of a clear and complete record.

Rule 5. **Hearing Officer Role.** The Board shall have all powers necessary to conduct a fair and impartial hearing. The Chair shall be the Hearing Officer and conduct the hearing unless the Board designates the City Attorney or the City Attorney's designee or other duly licensed attorney to act as the Hearing Officer for the hearing. The Hearing Officer shall act on behalf of the Board and have all

powers to conduct the hearing included herein where the Board is specified to act, except for the ruling on dispositive motions and the final disposition of the case, including, but not limited to the authority to:

- a. Regulate the course of hearings, set the time and place for continued hearings, fix times and the manner for filing of documents, provide for the taking of testimony by deposition if necessary, and in general conduct the proceedings, according to recognized principles of administrative law and the provisions of these Rules;
- b. Direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct conferences among the parties for the expeditious conduct of the hearing;
- c. Rule upon procedural matters or requests of the parties or similar matters;
- d. Administer oaths and affirmations or direct another authorized to administer oaths to do so;
- e. Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;
- f. Rule upon offers of proof and receive relevant evidence;
- g. Rule upon the admissibility of evidence as may be submitted, including but not limited to, documentary evidence, affidavits and oral testimony;
- h. Consider and rule upon all motions presented in the course of the proceedings; provided however that the Hearing Officer's ruling on motions to dismiss the objections shall be ratified by the Board before becoming effective;
- i. Require the parties to prepare written briefs and proposed findings of fact and conclusions of law;
- j. Examine registration records and to that end rely on the records of registrations provided by the County Clerk and examine signatures as part of the Registration/Binder check and make rulings on the validity of such signatures; and
- k. Enter any procedural or substantive order that further carries out the purpose of these Rules.

Rule 6. Board's Attorney. The City Attorney or the City Attorney's designee shall serve

as the Board's attorney, and if designated by the Board, as the Hearing Officer.

Rule 7. Preliminary Motions – Timing: Outcomes. Preliminary motions and objections to an objector's petition in the nature of a motion to strike the objections will be heard first.

If the objections to an objector's petition are sustained, the objector's petition as to those objections will be stricken and the validity of the nomination papers will be sustained as to those sustained objections.

Motions in the nature of motions to strike the objector's petition or parts of the objector's petition not made within the above time frame shall be deemed waived.

Other motions and replies not in the nature of a motion to strike shall be made by leave of the Chair or Hearing Officer if one has been appointed.

Rule 8. Registration or Binder Checks. When ordered by the Board, by motion of a Party if relevant to the Objector's petition, or upon the Board's or Hearing Officer's own initiative, nomination papers and objections may be compared with the permanent precinct registration records (binder records) or other registration records maintained by the County Clerk. The Hearing Officer may rely upon the response from the County Clerk in determining the validity of any signatures.

The Hearing Officer may submit a list of signatures or addresses to the County Clerk's Office for verification of registration or the Hearing Officer may, in the discretion of the Hearing Officer, examine registration records if such records are made available by the County Clerk electronically. In comparing a signature to which an objection has been filed, the Board will determine, in addition to any determination based upon the specific objection, from the permanent registration records:

- a. whether the signer of a petition (nominator) or circulator is a registered voter at the address shown beside his or her signature;
- b. whether the signature is that of the registered voter whose name appears on the petition; and
- c. whether the address shown is within the City or district involved.

The objector and the candidate shall each have the right to have one designated representative present, during his or her good conduct, at such comparison if the Hearing Officer elects to make such comparison via physical presence; provided, however, that the failure of such watchers to timely appear at the comparison shall not delay nor affect the validity of the comparison.

The standards set forth in the Appendix shall serve as a guide for the Board's decisions based on petition signatures. The Board may rely upon standards or decisions adopted or cited by the State Officers Electoral Board, the City of Chicago Electoral Board, standards promulgated by other electoral boards, or the Statewide Standards of the Citizen Participation Institute. For example:

http://www.citizenparticipation.org/uploads/6/1/4/1/61419805/ebm_2019_electoral_board_manual_3.pdf

<https://app.chicagoelections.com/documents/general/IndexOfElectoralBoardDecisions.pdf>

<https://app.chicagoelections.com/documents/general/LibraryOfElectoralBoardDecisions.pdf>

Rule 9.

Order of Presentation. The Board will first hear preliminary motions in the nature of a motion to dismiss. The Board may, in its discretion, reserve rulings on such motions pending further hearings.

The objector shall present his/her case-in-chief after the consideration of such preliminary motions. The objector shall bear the burden of presenting evidence sufficient to support a decision sustaining the objection.

The applicable evidentiary threshold on issues of fact shall be a "preponderance of the evidence".

The Board, in its discretion, may entertain a motion for a directed finding at the close of the objector's case-in-chief.

After the conclusion of the objector's case-in-chief, the candidate may present his/her case-in-chief.

At the close of candidate's case-in-chief, the objector may offer a case in rebuttal. Matters in rebuttal will be strictly limited to matters raised by the issues then before the Board.

Surrebuttal is disfavored and may be allowed by the Board only upon showing of compelling grounds. In the interest of brevity, the Board may terminate evidence or argument on repetitive matters or matters plainly beyond the scope of the case.

The Board may refuse to hear, with or without an objection of a party, evidence or argument it determines not germane to the electoral board hearing.

The objector need not adduce proof that the objector is a registered voter within

the political subdivision at issue. The candidate may raise the lack of the objector's standing or eligibility as an affirmative defense in his/her own case-in-chief.

The objector's motivation or personal knowledge of the factual basis for the objections is not relevant to the Board and shall not be considered.

The Board may alter the order of proof in order to expedite the hearing.

Rule 10. **Report of Proceedings.** The proceedings shall be recorded in a common electronic format, which may include recording in the Zoom platform. Participants shall be responsible for obtaining or producing a transcript if desired at their respective cost.

Rule 11. **Open Meetings.** The Board shall not close the meeting, except as authorized by statute, and shall observe the Open Meetings law of the State, including any Emergency Orders issued by the Governor related to open meetings during an emergency declaration.

The City Clerk shall provide for notices and provide for minutes of the proceedings as provided for in the Act.

Rule 12. **Subpoenas/Attendance of Parties.** Subpoena forms may, upon written request and explanation therefore, be obtained from the City Attorney's office. It shall be the responsibility of the person requesting a subpoena to ensure service and pay such fees as required by law. The Hearing Officer may make a determination whether or not the subpoena has been requested in good faith calculated to produce relevant and material evidence. The Board or the Hearing Officer may, on its own motion, subpoena persons. The candidate or objector may, if either in good faith intends to call the other as a witness, notify the other party or the party's attorney of that fact. Such notice shall require the attendance of such party for testimony.

Rule 13. **Arguments.** All arguments of counsel or by a party if not represented by an attorney and evidence must be confined to the points raised by the objections, if any, to the objector's petition and by the objector's petition and specifications with respect to the nomination papers. The objector and the candidate shall be concise and efficient in their presentation of their case. All opening statements and oral arguments following the close of evidence shall be limited to fifteen (15) minutes except as authorized in advance of said argument by the Hearing Officer or by motion of the Board. Any party who desires may submit arguments in writing within time limits prescribed by the Board.

Rule 14. **Failure to Follow Directives.** Failure to adhere to these rules or to a directive of a Hearing Officer or the Board shall be grounds for dismissal by the Board of

the objector's petition or the striking of the responses of the candidate.

Rule 15. Findings/Decision. The Board shall state its findings and decisions in writing, noting the objections which have been sustained and which have been overruled. The final decision of the Board shall be made by majority vote. The Board's decision shall be effective when voted on in open session. There shall be no rehearings on the final decision. If there is a tie vote due to the absence or unavailability of one of the Board Members, the matter shall be continued to another date. If the tie vote persists, the Objection shall be taken as not sustained.

Rule 16. General Procedures. For matters not covered herein, the Board may generally follow rules of practice which prevail in the City Council's rules or procedures or rules generally applicable to administrative proceedings, but because of the expedited nature of these proceedings, the Board will not be bound by such rules in all particulars. The Board may rely upon evidentiary principles contained generally in the rules of evidence adhered to in the circuit courts but shall not be bound by those rules. For example, the Board or Hearing Officer may generally rely upon procedures utilized by the State Officers Electoral Board or City of Chicago Board of Election Commissioners and Model Rules of Citizen Participation.

<https://www.elections.il.gov/downloads/abouttheboard/pdf/rulesofprocedure.pdf>

<https://app.chicagoelections.com/documents/general/M2019-Electoral-Board-Rules-Of-Procedure.pdf>

Rule 17. Sessions. After the Board convenes, it will be in session continuously until all objections shall have been considered and ruled upon; provided, however, the Board may recess from time to time.

Rule 18. Notice of Filing and Service. Service upon the Board shall be made by email transmittal to dmool@heyloyster.com.

Unless otherwise agreed by the parties, service shall be made by email based upon the email address provided to the Board and by filing a copy of the document or papers to be served and an executed Proof of Notice, as provided for herein, with the office of the City Attorney's designee via email to dmool@heyloyster.com. The Department will hold the document or papers for the party to whom it is addressed.

A "Proof of Notice" shall contain a verified statement that telephone notice of the filing has been given to the party or the party's counsel or that a good faith effort to give telephone notice at the telephone numbers on file with the Board to a party has been made by attempting to telephone the party at least three (3) times with no less than a half-hour interval between attempts and the papers

have additionally been sent by email to the party or the party's counsel.

Rule 19.

Public Participation. Except as hereinafter provided, the established and recorded rules for public comment pursuant to Section 2.06(g) of the Open Meetings Act (5 ILCS 120/2.06(g)) shall apply except that the total time allocated to public comment shall be 30 minutes and each speaker shall be permitted to speak no longer than three (3) minutes. Public comment shall be relevant to the limited jurisdiction of the Board.

DRAFT

ORDINANCE NO. 2020-09-049

AN ORDINANCE AMENDING CITY CODE CHAPTER 2,
ADDITION OF SECTION 2-5 Electronic Virtual Public Meetings

(Public Comment During Public Meetings)

WHEREAS, the City of Urbana ("City") is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, the Section 2.06(g) of the Open Meetings Act (5 ILCS 120/2.06(g)) provides: "Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body"; and

WHEREAS, the City Council believes that it is important to receive public comment and input during public meetings of the City Council, the City Council's Committee of the Whole, City boards and commissions, and other City-sponsored public bodies (hereinafter, collectively, "Public Meetings") regarding matters of public business whether or not a specific matter of public business appears on a Public Meeting's particular agenda; and

WHEREAS, the First Amendment protects the rights of persons who provide public comment and input at designated portions of public meetings conducted by the City; and

WHEREAS, the City has the legal right to provide time, place, and manner restrictions, including those pertaining to civility, on public comment and input during public meetings that are consistent with the First Amendment so long as such restrictions are content neutral (*Milestone v. City of Monroe, Wisconsin*, 665 F.3d 774 (7th Cir. 2011); *Vega v. Chicago Board of Education*, 338 F.Supp.3d 806 (D.C. N.D. 2018); *I.A. Rana Enterprises, Inc. v. City of Aurora*, 630 F.Supp.2d 912 (D.C. N.D. 2009); and

WHEREAS, consistent with the First Amendment, the City has the lawful authority to bar from public comment and input abusive, threatening, harassing, or defamatory language or behavior;

and

WHEREAS, Urbana City Code Chapter 2, Sections 2-4 and 2-27 establish the City's rules for the public to address City officials including members of the City Council, the City Council's Committee of the Whole, City boards and commissions, and other City-sponsored public bodies during public meetings; and

WHEREAS, the City Council has, from time to time, amended Urbana City Code Chapter 2, Sections 2-4 and 2-27; and

WHEREAS, Urbana City Code Section 2-4 was originally drafted to govern public input for in-person public meetings; and

WHEREAS, Illinois Governor J. B. Pritzker issued Executive Order No. 2020-07 that suspended the requirement under the Open Meetings Act that otherwise requires public body meetings be held in-person, which order was extended on April 1, 2020 by Executive Order No. 2020-18; and

WHEREAS, on June 12, 2020, Public Act 101-0640 became effective, which amended the Open Meetings Act to allow for public body meetings to continue remotely during periods of a disaster, including the COVID-19 pandemic, so long as at least one member of the public body, chief administrative officer, or chief legal counsel is present in the City Council chambers during each meeting; and

WHEREAS, the City Council deems it appropriate to amend UCC Chapter 2 to provide rules and proceeds for conducting Public Meetings remotely during periods of a disaster, including the COVID-19 pandemic.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

Urbana City Code Chapter 2, "Administration"; Article I, "In General"; Section 2-4, "Public meetings"; shall be and hereby is amended as follows.

Sec. 2-4. - In-Person Public meetings.

Section 2.

Urbana City Code Chapter 2, "Administration"; Article I, "In General"; shall be and hereby is amended as follows by adding a new Section 2-5 set forth hereinafter.

Sec. 2-5. - Electronic virtual public meetings.

- (a) For purposes of this section 2-5, the following definitions shall apply.

Presiding officer means the person who chairs a given meeting of a public body.

Public body means the city council, including its committee of the whole, and city-created and sponsored boards, commissions, committees, and task forces.

- (b) Any member of the public who seeks to address the members of a public body at any public meeting conducted on a video and/or audio electronic platform will be permitted to provide input on any matter listed on the agenda or on any other matter of public concern, subject to the following provisions:

(1) Verbal public comments.

- a The agenda for the meeting shall designate a time during the meeting per *Sec. 2-27 Rules for deliberations* at which the public may address the members for verbal comment.
- b Prior to speaking, each person must be recognized by the presiding officer and must state their first and last name for the meeting record.
- c Public comment shall be limited to no more than four (4) minutes per person. The public input portion of the meeting shall total no more than one (1) hour unless otherwise shortened or extended by majority vote of the public body members present. The presiding officer, the city clerk, or their designee, shall monitor each speaker's use of time and shall notify the speaker when the allotted time has expired. Since public comment is the time when the public body members listen to the public, all public comments should be addressed to the public body as a whole. A person may provide public input once during a meeting and may not cede time to another person or split their time if public comment is held at two or more different times during a meeting. The presiding officer may give priority to those persons who indicate they wish to speak on an agenda item upon which a vote will be taken.
- d In order to maintain reasonable decorum at a meeting, the presiding officer of the meeting shall have the authority to provide a verbal warning to a speaker who uses abusive, harassing, threatening, or defamatory language, or who engages in disorderly conduct that disrupts, disturbs, or otherwise impedes the orderly conduct of a meeting. If the speaker refuses to cease such remarks or conduct after being warned by the presiding officer, the presiding officer shall have the authority to mute the speaker's microphone and/or video presence at the meeting. The speaker may send the remainder of their remarks via email to the public body.

(2) Written public comments.

- a Any member of the public may submit their comments addressed to members of the public body in writing (including via e-mail). If a person wishes their written comments to be included in the record of public input for the meeting, the writing should so state. Comments must be received prior to closing of the meeting record. The meeting record will close at the time of adjournment unless otherwise stated in the public notice for the meeting.
- b Specific instructions for verbal or written public comments shall be posted with the public notice for each meeting.

(3) Invited presentation.

- a Members of the public invited by the presiding officer to address the public body on a specific topic and properly noticed on the agenda shall be limited to no more than ten (10) minutes unless otherwise shortened or extended by a majority vote of the public body members present.
- b Members of the public body who wish to schedule a presentation to the public body by a member of the public must make a request to the presiding officer. The presiding officer must schedule the requested presentation with the city administrator for city council and committee of the whole items or staff liaison for board and commission items.
- c If the invited speaker wishes to present material using screen sharing or a similar means, they shall email the material to the City Clerk before 3 pm on the day of the meeting.

(4) Separate rules, as required by law or as otherwise provided in this Code, will govern the conduct of quasi-judicial hearings.

(c) The city clerk shall post the provisions of subsection (b) on the city's website.

Section 3.

Urbana City Code Chapter 2, "Administration"; Article I, "In General"; shall be and hereby is amended as follows.

Secs. 2-6 - 2-16. - Reserved.

Section 4.

Urbana City Code Chapter 2, "Administration"; Article II, "Elected Officials"; Division 2, "City Council"; Section 2-27, "Rules for deliberations" shall be and hereby are amended as follows.

Sec. 2-27. - Rules for deliberations.

The following rules for the government of the deliberations of the city council are hereby adopted:

- (1) The city council shall determine its own rules of proceeding, which rules must be adopted and approved by a two-thirds ($\frac{2}{3}$) vote of all the members of the council, and no such rule may be repealed, annulled, amended, abridged, modified or suspended except by a two-thirds ($\frac{2}{3}$) vote of all the members of the council. On all points of order not otherwise specifically provided for in such rules of proceeding, "Robert's Rules of Order," as may from time-to-time be revised, is adopted and made the law governing the deliberations of the city council.
- (2) The order of business of all regular meetings of the city council shall be as follows:
 - a Call to order and roll call.
 - b Approval of minutes of the proceedings of regular and special meetings.
 - c Additions to agenda.
 - d Presentations and public input
 - e Unfinished business.
 - f Reports of standing committees.
 1. Consent agenda.
 2. Regular agenda.
 - g Reports of special committees.
 - h Reports of officers.
 - i New business.
 - j Adjournment.

The above order of business for any meeting may be altered by a majority vote of the city council members in attendance at the meeting.

- (3) Whenever it shall become necessary for a number smaller than a majority of the city council to compel the attendance of absentee members in order to constitute a quorum to do business, a fine of two hundred dollars (\$200.00) may be imposed upon any such absentee member for failure to so attend.
- (4) At any meeting of the city council, upon the making of and second to a motion to defer (whether phrased as a "motion to defer" or otherwise), the effect of which would be to postpone consideration of any agenda item to the next regular meeting of the council. Such agenda item is then before the city council for the first time by motion made and seconded, any such agenda item shall be automatically deferred for final action thereon to the next regular meeting of the city council, unless upon the making of and second to a subsequent motion, three-fourths ($\frac{3}{4}$) of those aldermen/alderwomen present vote to consider such deferred item at a special meeting to be called and held before the date of the next regular meeting.

Section 5.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 6.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 7.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

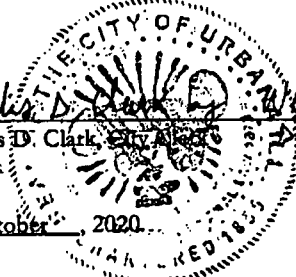
This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this 12th day of October, 2020.

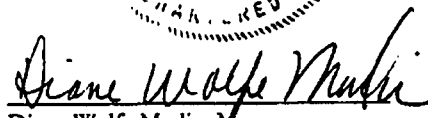
AYES: Brown, Colbrook, Roberts, Wu

NAYS: Miller

ABSTENTIONS:


Phyllis D. Clark
Phyllis D. Clark, City Clerk
Deputy Clerk

APPROVED BY THE MAYOR this 13th day of October, 2020.


Diane Wolfe Martin, Mayor

Sec. 2-4. Public meetings.

(a) Any person who seeks to address the members of a commission, committee, or other official body of the city at any public meeting will be permitted to speak on any matter listed on the agenda or on any other matter of public concern, subject to the following provisions:

1. The presiding officer shall designate a time during the meeting at which the public may address the members. The presiding officer may require persons wishing to speak during any portion of a meeting to sign in before the start of the meeting and to provide their names, addresses, and topics to be discussed.

2. Prior to speaking, each person must be recognized by the presiding officer and must state his or her name and address for the record.

3. Subject to subsection 2-4(a)(4), public comment is limited to no more than five (5) minutes per person and to no more than two (2) hours per meeting, unless extended by consent of a majority vote of the members present. The presiding officer or his or her designee shall monitor each speaker's use of time and shall notify the speaker when the time allotted has expired.

4. If the presiding officer recognizes that more than 20 persons desire to speak, he or she may limit each speaker to comments of no more than three (3) minutes. Whenever any group of persons wishes to address the members on the same subject matter, the presiding officer may ask that a spokesperson be chosen from the group. If additional matters are to be presented by other persons in the group, the presiding officer may limit the number of such persons and may limit the presentation to information not already presented by the group spokesperson.

5. Persons invited by the presiding officer to address the members are subject to such time limitations as the majority of the members present may prescribe.

6. Separate rules, as required by law or as otherwise provided in this Code, will govern the conduct of quasi-judicial hearings.

(b) The city clerk shall post the provisions of subsection 2-4(a) on the city's website.



Christopher Hansen [REDACTED]

Tue, Dec 8, 2020 at 7:19 PM

To: Christopher Hansen [REDACTED]

Hi Christopher,

I was not able to speak in public comment due to time constraints. I had my hand up for a while, then I lowered it to let other people speak, because I assumed there was a line-up and I already said most of my comments yesterday. I went back and forth and raised and maybe re-lowered my hand. But either way, there wasn't enough time before the cut off and my hand was going up and down.

[REDACTED]



Christopher Hansen [REDACTED]

Not allowed to speak

1 message

Tue, Dec 8, 2020 at 6:22 PM

To: Christopher Hansen [REDACTED]

Mr Hansen,

I wanted to let you know that the Urbana electoral Board hearing scheduled for 5:30 PM, I had my hand raised in zoom for public input but was not allowed to speak. Urbana's city government cannot keep continuing to skirt the rules like this.

Thank you,
[REDACTED]



Christopher Hansen [REDACTED]

Public participation

3 messages

Tue, Dec 8, 2020 at 6:25 PM

To: "cc: Christopher Hansen" [REDACTED]

Chris,

I attended the Urbana Electoral Board Hearing scheduled for 5:30pm today for my support of Meghan McDonald and Verdell Jones III. I had my hand raised in the Zoom conferencing app to give public input, but was not allowed to speak. I would like to note the OMA suggests 5 minutes for public participation in-person meetings.

The City of Urbana violated public participation and limited speaking time to only 3 minutes per speaker and a total participation time of 30. WTF? I am upset I was unable to submit my verbal support on public record! How do I file a complaint against the City?

Christopher Hansen [REDACTED]

Tue, Dec 8, 2020 at 6:49 PM

To: [REDACTED]

You are correct that the board should have been following Urbana City Code Section 2-4 which clearly indicates up to 5 minutes per person and two hours in total.

The new rules that the electoral board tried to enforce (3 minutes and 30 minutes) are not legal because they were not formally recorded by the public body. The Urbana City Code clearly indicates that Section 2-4 applies.

I suggest submitting a complaint to the Public Access Counselor (PAC), which operates within the Office of the Illinois Attorney General.

The PAC exists to review such complaints.

All you need to do is email your complaint to: publicaccess@atg.state.il.us

The complaint does not need to be written in legalese. You will simply want to name the time and place of the meeting, and allege that the public body has violated the provision of the Open Meetings Act that assures the public the right to speak at public meetings.

Write your name at the end of the email to satisfy the requirement that the complaint be "signed".

I may also submit such a complaint and I hope you won't mind if I use your email as evidence that people were not allowed to speak.

Regards,

Christopher

[Quoted text hidden]

Tue, Dec 8, 2020 at 7:27 PM

To: Christopher Hansen [REDACTED]

Thank you for your response and additional information. I don't mind AT ALL!