

## Marian Gibson

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**From:** Marian Gibson  
**Sent:** Friday, April 06, 2018 8:58 AM  
**To:** Darryl Lab  
**Cc:** Julie Friebele  
**Subject:** FW: Public Hearing for April 23 2018 - Annexation Agm.docx

[REDACTED]

Marian T. Gibson, ICMA-CM  
Village Administrator  
Village of Elwood  
401 East Mississippi Ave.  
Elwood, IL 60421  
[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)  
815 424-1094 (Direct)  
815 509-2282 (Cell)  
815 423-6861 (Fax)

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**From:** Darryl Lab <[darryl.lab@villageofelwood.com](mailto:darryl.lab@villageofelwood.com)>  
**Sent:** Friday, April 06, 2018 8:45 AM  
**To:** Marian Gibson <[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)>  
**Subject:** Re: Public Hearing for April 23 2018 - Annexation Agm.docx

Marian

[REDACTED]

Thank you

Darryl

On Apr 5, 2018, at 3:38 PM, Marian Gibson <[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)> wrote:

All,

Marian T. Gibson, ICMA-CM

Village Administrator  
Village of Elwood  
401 East Mississippi Ave.  
Elwood, IL 60421  
[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)  
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<20180406\_AD1523308\_jnl.pdf>

## Marian Gibson

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**From:** Marian Gibson  
**Sent:** Wednesday, April 04, 2018 9:34 AM  
**To:** Fred Hayes; Larry Lohmar (larry.lohmar@villageofelwood.com); Robbie Day; Pat Winters; Marie Rodgers; Natalie Bechtold; 'Sheila Meyers'; Darryl P. Lab (darryl.lab@villageofelwood.com); Dean Lowrance (dean.lowrance@villageofelwood.com); Don LaPaglia (don.lapaglia@villageofelwood.com); Doug Jenco (doug.jenco@villageofelwood.com); Jasen Melahn (jasen.melahn@villageofelwood.com); Mary Matichak; Jim Sparber (jsparber@baxterwoodman.com)  
**Subject:** Services for Julie's Mom

All,



Marian T. Gibson, ICMA-CM;  
Village Administrator  
Village of Elwood  
401 East Mississippi Ave.  
Elwood, IL 60421  
[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)  
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## Marian Gibson

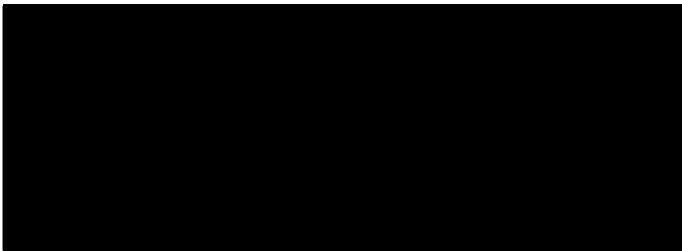
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**From:** Marian Gibson  
**Sent:** Friday, March 30, 2018 4:42 PM  
**To:** Doug Jenco  
**Subject:** Re: items

Thanks for your response. If you get a chance this weekend stop in there some items in your box. Have a great Easter.

Marian T. Gibson, ICMA-CM  
Village Administrator  
Village of Elwood  
401 E. Mississippi  
Elwood, IL 60421  
(815) 424-1095 Direct  
(815) 509-2282 Cell  
Email [marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)

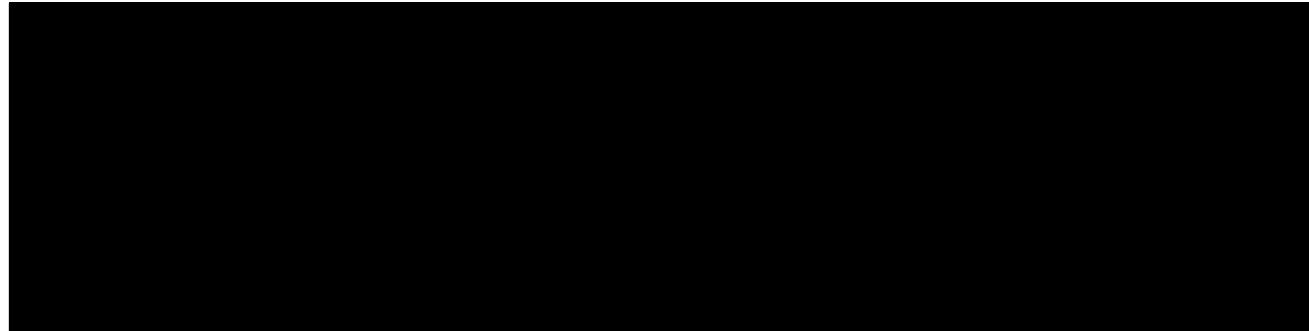
On Mar 30, 2018, at 4:40 PM, Doug Jenco <[doug.jenco@villageofelwood.com](mailto:doug.jenco@villageofelwood.com)> wrote:



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**From:** Marian Gibson <[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)>  
**Sent:** Friday, March 30, 2018 8:31 AM  
**Subject:** items  
**To:** Dean Lowrance <[dean.lowrance@villageofelwood.com](mailto:dean.lowrance@villageofelwood.com)>, Don LaPaglia <[don.lapaglia@villageofelwood.com](mailto:don.lapaglia@villageofelwood.com)>, Darryl P. Lab <[darryl.lab@villageofelwood.com](mailto:darryl.lab@villageofelwood.com)>, Jasen Melahn <[jasen.melahn@villageofelwood.com](mailto:jasen.melahn@villageofelwood.com)>, Doug Jenco <[doug.jenco@villageofelwood.com](mailto:doug.jenco@villageofelwood.com)>, Mary Matichak <[mary.matichak@villageofelwood.com](mailto:mary.matichak@villageofelwood.com)>

All,



Marian T. Gibson, ICMA-CM)

Village Administrator  
Village of Elwood  
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Elwood, IL 60421  
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## Marian Gibson

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**From:** Marian Gibson  
**Sent:** Friday, March 30, 2018 9:14 AM  
**To:** Dean Lowrance  
**Subject:** RE: Legislation

[REDACTED]

Marian T. Gibson, ICMA-CM  
Village Administrator  
Village of Elwood  
401 East Mississippi Ave.  
Elwood, IL 60421  
[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)  
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**From:** cdlowrance <[dean.lowrance@villageofelwood.com](mailto:dean.lowrance@villageofelwood.com)>  
**Sent:** Thursday, March 29, 2018 7:18 PM  
**To:** Marian Gibson <[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)>  
**Subject:** RE: Legislation

[REDACTED]

Dean

Sent from Mail for Windows 10

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**From:** Marian Gibson  
**Sent:** Thursday, March 29, 2018 1:45 PM  
**To:** Darryl P. Lab; Dean Lowrance; Don LaPaglia; Doug Jenco; Jasen Melahn; Mary Matichak  
**Subject:** Legislation

[REDACTED]

[REDACTED]

PLEASE DO NOT REPLY TO ALL.

Marian T. Gibson, ICMA-CM  
Village Administrator

Village of Elwood  
401 East Mississippi Ave.  
Elwood, IL 60421  
[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)  
815 424-1094 (Direct)  
815 509-2282 (Cell)  
815 423-6861 (Fax)

## Marian Gibson

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**From:** Marian Gibson  
**Sent:** Thursday, March 29, 2018 5:01 PM  
**To:** Darryl P. Lab (darryl.lab@villageofelwood.com); Dean Lowrance (dean.lowrance@villageofelwood.com); Don LaPaglia (don.lapaglia@villageofelwood.com); Doug Jenco (doug.jenco@villageofelwood.com); Jasen Melahn (jasen.melahn@villageofelwood.com); Mary Matichak (mary.matichak@villageofelwood.com)  
**Subject:** FW: 2018 PAC 50967 and 51034  
**Attachments:** 50967 51034 o 2a meeting proper mun.pdf; ATT00001.htm

Good news.

Marian T. Gibson, ICMA-CM  
Village Administrator  
Village of Elwood  
401 East Mississippi Ave.  
Elwood, IL 60421  
[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)  
815 424-1094 (Direct)  
815 509-2282 (Cell)  
815 423-6861 (Fax)

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**From:** David Silverman <[dsilverman@msclawfirm.com](mailto:dsilverman@msclawfirm.com)>  
**Sent:** Thursday, March 29, 2018 4:52 PM  
**To:** Marian Gibson <[marian.gibson@villageofelwood.com](mailto:marian.gibson@villageofelwood.com)>; Julie Friebele <[julie.friebele@villageofelwood.com](mailto:julie.friebele@villageofelwood.com)>  
**Subject:** Fwd: 2018 PAC 50967 and 51034

David J. Silverman  
Mahoney, Silverman & Cross ,LLC  
822 Infantry Drive , Suite 100  
Joliet , IL 60435  
815 730 9500  
[dsilverman@msclawfirm.com](mailto:dsilverman@msclawfirm.com)  
[Www.msclawfirm.com](http://www.msclawfirm.com)

Begin forwarded message:

**From:** "Carnes, Jodi" <[JCarnes@atg.state.il.us](mailto:JCarnes@atg.state.il.us)>  
**Date:** March 29, 2018 at 4:41:48 PM CDT  
**To:** "[dianesewing@hotmail.com](mailto:dianesewing@hotmail.com)" <[dianesewing@hotmail.com](mailto:dianesewing@hotmail.com)>, "[mpaerosmth@att.net](mailto:mpaerosmth@att.net)" <[mpaerosmth@att.net](mailto:mpaerosmth@att.net)>, "[dsilverman@msclawfirm.com](mailto:dsilverman@msclawfirm.com)" <[dsilverman@msclawfirm.com](mailto:dsilverman@msclawfirm.com)>  
**Cc:** "Olson, Neil" <[NOLson@atg.state.il.us](mailto:NOLson@atg.state.il.us)>  
**Subject:** 2018 PAC 50967 and 51034

Please find the attached correspondence from Deputy Public Access Counselor Olson.

Please contact us if you have any questions. Thank you.

Jodi Carnes, Paralegal  
Office of the Attorney General  
Public Access Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 558-1926  
(217) 782-1396 fax

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OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

March 29, 2018

*Via electronic mail*  
Ms. Diane Sewing  
107 Woodbrine Drive  
Elwood, Illinois 60421  
dianesewing@hotmail.com

*Via electronic mail*  
Ms. Michelle Peterson  
mpaerosmth@att.net

*Via electronic mail*  
Mr. David J. Silverman  
Mahoney, Silverman & Cross, LLC  
822 Infantry Drive  
Joliet, Illinois 60435  
dsilverman@msclawfirm.com

RE: OMA Requests for Review – 2018 PAC 50967 and 2018 PAC 51034

Dear Ms. Peterson, Ms. Sewing, and Mr. Silverman:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2016)). For the reasons that follow, the Public Access Bureau concludes that the Village of Elwood Board of Trustees (Board) did not hold a private meeting in violation of OMA.

On December 22, 2017, Ms. Diane Sewing filed a Request for Review alleging that the Board may have violated OMA. She included a "timeline" document obtained from the Village via the Freedom of Information Act, which included an item for December 12 and 13, 2017: "Marian, Jim, and Dave meet with Village Board trustees to review annexation agreement, plan of finance & development plans."<sup>1</sup> On December 29, 2017, Ms. Michelle Peterson also

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<sup>1</sup>E-mail from Diane Sewing to Public Access [Bureau] (December 22, 2017).

Ms. Michelle Peterson  
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Mr. David J. Silverman  
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Page 2

filed a Request for Review alleging that the Board may have violated OMA. She referred to the Village timeline as evidence that the Board may have met privately.

On January 12, 2018, this office forwarded copies of the Requests for Review to counsel for the Board and asked for a written response to the allegations in the Requests for Review and to specifically address whether any gathering of Village trustees on December 12 or 13, 2017, was a "meeting" as defined by section 1.02 of OMA (5 ILCS 120/1.02 (West 2016)).<sup>2</sup>

On January 22, 2018, counsel for the Board submitted a written answer and included an affidavit from the Village Administrator, who was the author of the timeline. On January 24, 2018, this office forwarded copies of the Board's answer to Ms. Sewing and Ms. Peterson. Ms. Peterson submitted a reply on January 29, 2018. On February 2, 2018, counsel for the Board submitted a supplemental answer; this office forwarded a copy of that supplemental answer to Ms. Sewing and Ms. Peterson on February 6, 2018. Ms. Peterson further replied to that supplemental answer on February 14, 2018. Counsel for the Board provided additional information to this office on February 26, 2018.

## DETERMINATION

Section 2.01 of OMA (5 ILCS 120/2.01 (West 2016), as amended by Public Act 100-477, effective September 8, 2017) provides that "[a]ll **meetings** required by this Act to be public shall be held at specified times and places which are convenient and open to the public." (Emphasis added.) In order for the requirements of OMA to apply, a gathering must constitute a "meeting" as defined by section 1.02 of OMA:

"Meeting" means any **gathering**, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, **of a majority of a quorum of the members of a public body held for the purpose of discussing public business**[.] (Emphasis added.)

The Board consists of six members; four members comprise a quorum and three members comprise a majority of a quorum. Under the plain language of the definition of

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<sup>2</sup>Both Requests for Review also alleged that a December 19, 2017, meeting of the Village Planning and Zoning Commission was not reasonably accessible to members of the public. The Village separately addressed those allegations in response to other Requests for Review, and this office issued a determination on those allegations on January 23, 2018.

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Page 3

"meeting," whenever three or more members of the Board engage in contemporaneous, interactive discussions of public business, the procedural safeguards and requirements of OMA apply, including the duty to post notice (5 ILCS 120/2.02 (West 2016)), the duty to keep minutes (5 ILCS 120/2.06(a) (West 2016)), and the duty to allow public comment (5 ILCS 120/2.06(g) (West 2016)).

In the initial answer to this office on January 22, 2018, counsel for the Board stated that the requesters had not offered any proof of a gathering of a majority of a quorum of the Board, and the Village Administrator averred in her affidavit that she had not intended to suggest any violation of OMA by the timeline. Counsel for the Board further stated in his February 2, 2018, correspondence that the alleged meeting never occurred, and pointed out that the text of the item in the timeline referred to meeting with trustees, not the Board as a group. Counsel for the Board further explained on February 26, 2018, that the intent was for the Village staff to meet with individual Board members, not as a group, on December 12 or 13, but that those meetings never occurred because the negotiations with the developer had not progressed enough. There is no evidence that a majority of a quorum of the Board gathered to discuss public business on or about December 12 or 13, 2017. Accordingly, this office cannot conclude that the Board conducted a "meeting," as defined by OMA, on or about December 12 or 13, 2017.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter shall serve to close this matter. If you have any questions, you may contact me at (217) 782-9078 or nolson@atg.state.il.us.

Very truly yours,

  
NEIL P. OLSON  
Deputy Public Access Counselor  
Public Access Bureau

50967 51034 o 2a meeting proper mun

