



# Citizen Advocacy Center Everyday Democracy

2014, First Edition

Welcome to *Everyday Democracy*, a newsletter that details how our community lawyering work builds democracy by strengthening the capacities, resources, and institutions for self-governance. *Everyday Democracy* highlights recent public education and legal resources, government monitoring and advocacy on issues of public concern addressed by the Citizen Advocacy Center (CAC). Keep up with daily developments by following us on our website, Facebook, Twitter, or by giving us a call!

## **Illinois Attorney General Public Access Counselor Determination on Freedom of Information Act “Pre-Decisional” Exemption**

For the second time within a year, CAC has helped to obtain a successful determination from the Illinois Attorney General’s Public Access Counselor (PAC) related to a publicly-owned, publicly-funded parking deck project in the City of Elmhurst. The first determination, made in February 2013, dealt with violations of the Open Meetings Act which occurred in September 2012. CAC helped a public official contest closed-session meetings during which land use issues pertaining to the publicly-owned project were discussed. The City claimed that because the discussion included project finances, including the cost of potentially building additional stories on the project, which would then be sold back to the project developer, the meetings could be closed. The PAC disagreed, stating that land use issues such as building height and use could not be discussed in executive session because the public body already owned the property. Pursuant to the PAC’s instructions the audiotape recordings of both meetings were released.

In October 2013, CAC helped a concerned citizen file a Freedom of Information Act (FOIA) Request for Review when the City withheld documents regarding construction costs of the same parking garage project. The City claimed the records were “pre-decisional” and could be withheld because they were drafts, notes and/or recommendations used to help the public body form an opinion about an issue outside of public scrutiny. The documents at issue were a draft proposal, which included some handwritten notes, and a memo.

CAC helped the citizen argue that because the City owned and was contracted to build the project since 2009, any financial information was factual and not subject to debate. The only policy decision under consideration was building height.

The PAC agreed that the documents were improperly

withheld and in its decision issued in December 2013 instructed the City to: (1) disclose the draft proposal prepared by the general contractor because the general contractor’s financial interest in the multi-million dollar project is not the same as the City’s interest; thus the document is not an intra-agency communication; (2) disclose handwritten notes that were on the draft proposal prepared by the general contractor because those notes are factual in nature, except that the City may redact the portion of the handwritten notes which were made by the Assistant City Manager because these appear to be pre-decisional opinions which were not specifically referenced by the Mayor in open session; and (3) disclose the memo from the City Manager because the memo was not an expression of opinion. Pursuant to these instructions, the documents at issue were released; most of the released documents date back to the very meetings that were previously ruled to be in violation of the OMA.

View copies of the Attorney General’s Public Access Counselor’s Opinions for the Open Meetings Act land use violation and the Freedom of Information Act pre-decisional violation at [CitizenAdvocacyCenter.org](http://CitizenAdvocacyCenter.org)

## **Tic-Tac-Toe; Citizen Banning; and Retaliatory Public Comment Policies? Radicals Take Over Plainfield!**

On November 4, 2013 the Plainfield Township Park District posted on their website an entry about Requests for Reviews to the Illinois Attorney General PAC filed by citizens monitoring Park District activities. For this activity, the citizens were described as a “small group of radicals” who use the PAC review process to “possibly harass the Plainfield Park District Board for its decisions.” The entry went on to state that “[i]t is our opinion [that the] complaints were frivolous and a financial distraction from our mission.”

The activity prompting this is a group of citizens asking questions about policies and finances, which have remained unanswered.

*(Park District, continued p.3)*

## CITIZEN INITIATIVE AWARDS

**Awards are given to dynamic people who act as catalysts for democratic participation. They use civic, legal, and community organizing tools to advocate on issues of public concern.**



**Mrs. Cheryl Ealey-Cross:**

*Recognized for her forceful advocacy to empower community members and to bring greater government accountability to Maywood.*

A long time public advocate, Mrs. Ealey-Cross has worked both inside and outside City Hall to make a difference. In 2010, along with other concerned citizens, Mrs. Ealey-Cross filed a Freedom of Information Act (FOIA) for copies of records routinely turned over by public bodies, including credit card expenses and a line item budget. Initially, the Village claimed some records did not exist.

With pro bono assistance from a law firm in Chicago, they brought a successful suit to obtain the records. Disclosure of public records showed expenses that raised questions among taxpayers: expensive clothing, sporting event tickets, and skybox catering and cashier checks totaling more than \$400,000.

In prior runs for public office, Mrs. Ealey-Cross has brought to light anti-democratic practices of the Village with respect to FOIA procedures, financial accountability, and electoral board flaws. Mrs. Ealey-Cross was appointed to a vacated trustee seat, allowing her the opportunity to ask her questions of government operations and accountability in a different manner.



**Mr. Stan Zegel:**

*Recognized for resurrecting community newspaper "Winfield Register" to question issues of public concern.*

Mr. Zegel is a long-time Winfield community activist on issues such as initiating a successful effort to require the Village to hold a referendum on fiscal projects exceeding \$1 million in a single fiscal year, organizing community forums on how to run for public office, monitoring local electoral boards for discrepancies in application of state laws, and initiating a successful referendum to change trustee positions in the Fire Protection District to elected instead of appointed.

In 2012, Mr. Zegel re-published the community paper because of the lack of election coverage and Village Board issues, such as a vote to place on the ballot a change in Trustee representation from at-large to wards. *The Winfield Register* is a weekly newspaper that questions issues such as video gaming and the contentious issues surrounding disbanding Winfield's police department. The paper published the notes, in totality, of then-trustee (now Mayor) Erik Spande who questioned the appropriateness of 12 executive sessions where the Board discussed disbanding the Winfield Police Department. *The Winfield Register's* disclosure of Trustee Spande's notes helped to set off a community outrage over such an important issue being discussed behind closed doors.



**Mr. Bob Mueller:**

*Recognized for spearheading a citizen led effort to be the first Illinois municipality in 29 years to repeal home rule power.*

Mr. Mueller led a campaign to educate and raise concerns among Westmont residents about home rule power. Home rule power allows a municipality that meets certain criteria to tax, spend, and regulate beyond the limits of state law.

In 2007, Westmont officials paid for a special census to document a population in excess of 25,000, one way to achieve home rule power. The Village Board then began passing controversial ordinances, such as increasing regulation of private commercial and rental properties that resulted in an increase in costs for

the half of the local population who lived in rental housing. Another controversial decision was to implement red light cameras. The 2010 Census documented a dip in Westmont's population below 25,000, thus necessitating a referendum to retain home rule power.

Mr. Mueller's group opposed home rule because they felt the Village Board was using the powers in an unaccountable manner. Wearing highlighted t-shirts and campaign buttons, his group distributed informational flyers at the train station, door knob placards to single family homes, and outdoor display signs, as well as published a tri-fold informational brochure that was made available at select stores in the village.

At the 2012 General Election, Westmont voters decided 51%-49% to abandon home rule, thus making all state laws once again applicable to village governance.

## CAC Executive Director Seated on Illinois General Assembly Civic Education Task Force

CAC successfully partnered with Former Illinois Attorney General Jim Ryan's Center for Civic Leadership and Public Service at Benedictine University and the McCormick Foundation's Illinois Civic Mission Coalition to highlight Illinois' need for civic education policy reform. Because of our joint efforts, a Civic Education Task Force will be held in 2014 to assess civic education standards and make recommendations for reform.

In the wake of two consecutive Illinois Governors being convicted of federal corruption, the Illinois General Assembly passed a medley of laws to reform systemic deficiencies related to ethics, campaign finance, open records, and redistricting. However until now there was no movement to examine Illinois' paltry civic education standards that affect the ability of Illinois' residents to develop the skills, knowledge, and capacity to engage in the democratic process. The National Conference on Citizenship ranked Illinois 40th among the 50 states in the quality of civic life. They found that young people in Illinois are less likely to attend government meetings where community issues are discussed as compared to their peers elsewhere.

*Watch CAC's website for the public hearing schedule and plan to be there. The Task Force wants YOUR input about what students should be taught about civic education.*

The Civic Education Task Force will: (1) analyze the current state of civic education; (2) analyze current civic education laws in other jurisdictions with mandated civic education; (3) identify best practices in civic education in other jurisdictions; (4) make recommendations to substantially increase civic literacy and; (5) make funding recommendations.

---

*(Park District, continued from p.1)*

CAC community lawyers attended a meeting and challenged the public body to remove the posting. The Board President and Executive Director illustrated their level of professionalism by playing tic-tac-toe during the CAC's community lawyer's public comment. This was followed up by removing a citizen and banning her from attending Park District meetings for three months after she goaded a member of the board.

The final highlight was the adoption of a revised public comment policy that the board had just passed a mere

## Alternative Election Systems: A Better Way to Represent Voters?

An election system is the manner in which units of government elect public officials at the local, state, and federal level. The most commonly known in Illinois is a "Winner Take All" system, where all a candidate needs to win, regardless of how many candidates are running for one office, is one vote more than the candidate with the second highest number of votes.

While, "Winner Take All" is the most common, Illinois has a long history using another election system called cumulative voting. Cumulative voting was used to elect the Illinois House of Representatives from 1870 to 1980. Instant run-off voting is another type of alternative election system. Both cumulative voting and instant run-off voting tend to create a broader range of diversity of representation with respect to race and political parties because *how* candidates are elected in these systems allows those in the political minority to still have a voice in government. A winner take all system only benefits the constituents who were successful in getting one more voter to the poll who voted for a particular candidate.

*The Illinois Attorney General has issued an opinion stating that under the Illinois Constitution home rule communities are able to adopt by binding referendum cumulative or ranked choice voting.*

The CAC is working with DuPage NAACP, Immigrant Solidarity DuPage, and community activists in Elgin and Wheaton to organize community forums throughout the Chicago collar counties to educate voters about how home rule communities can use instant run-off voting and cumulative voting. Check CAC's website or call for meeting dates!

Also be sure to check out CAC's educational brochures: Citizen Guide to Home Rule and Citizen Guide to Alternative Election Systems.

*Plainfield Park District Public Comment Policy: "avoid **personal remarks**, the **impugning of motives**, and **contentious statements**...as well as indulging in conduct **injurious to the harmony** of the Park Board.*

six months earlier. A CAC community lawyer once again attended a meeting to call the public comment policy vague and overbroad. CAC successfully helped residents remove the "radical" posting and is working to quash the citizen ban from the public meeting as well as reform the non-compliant First Amendment public comment policy. Stay tuned!

non-profit org.  
US postage  
Bulk Rate  
PAID  
Elmhurst, IL  
permit no. 86

182 N. York St,  
Elmhurst, IL 60126  
www.citizenadvocacycenter.org  
630-833-4080

*Return Service Requested*

*Everyday Democracy* is a publication of the *Citizen Advocacy Center*, (CAC) a non-profit, nonpartisan, 501(c)(3) corporation.

If you are interested in more information, becoming a volunteer, or making a tax-deductible contribution, please feel free to contact or visit us.

**CITIZEN  
ADVOCACY  
CENTER**

## EXCITING THINGS ARE HAPPENING AT CAC IN 2014



**Celebrate two decades  
of building democracy  
with CAC !**

**20<sup>th</sup> ANNIVERSARY  
SAVE THE DATE  
COMING SOON**

- **CAC IS UPDATING OUR LOOK!**  
Our community lawyering isn't the only thing that's groundbreaking! Stop by for a visit!
- **SUMMER SPEAKER SERIES**  
Intersection of History, Law, and Social Justice – Watch for upcoming dates!
  - The History and Current Context of Fair Housing and Affordable Housing in DuPage County.
  - During the War on Terror, What does History Tell us About Free Speech?
  - Consumer Advocacy: Do Corporations Own Us or Do We Have A Dog in this Fight?