

Michael Zoran
Trustee and Precinct Delegate of Cottrellville Township

I believe these things need to be changed with the Open Meetings Act:

* The rate of an attorney's pay should be difficult to challenge. My attorney specializes in Open Meetings Act violations, and he comes all the way from Saginaw to Port Huron. Nobody in St. Clair County specializes in this area of law, and I could only find one St. Clair County attorney willing to consider the case – a man who was not familiar with the Open Meetings Act. All "local" attorneys in the county said they would rather gain favor with a local municipality rather than fight against them, because they would like to get hired to do their work and be their representative.

In a Circuit Court case, Judge Michael West said that my attorney from Saginaw was charging too much because of his age and the fact that he had only been graduated from law school for four years! My attorney may be relatively young, but he possesses an MBA, was the Editor of his Law Newspaper at Michigan State University, and has even taken a case to the Supreme Court! Pay rates should not be based on "local" pay rates where "local" attorneys don't want to take the jobs. I know another attorney who said "An attorney's pay should be based on his level of skill, not how long he's had a degree." He then said "I know people in their 70's still practicing law, and they shouldn't be anymore – and their résumés aren't as impressive as your attorney's is."

What's even more amazing is that my attorney charged only \$250 per hour, which is in line with all other "Local" attorneys in St. Clair County – regardless of age. When you use the Laffey Matrix to see where my attorney's pay rate is, it says that an attorney with four years experience as an attorney should be charging approximately \$245 per hour. The Michigan Open Meetings Act is something not many attorneys know about or specialize in. We do not want to make it so skilled attorneys that must travel a great distance do not want to take cases, simply because judges refuse to allow attorney's fees to be paid as a result of an attorney's age! This method of payment system that is based on age and experience needs to be something that should not be associated with Michigan Open Meetings Act cases.

* It is 100% crucial that Injunctive Relief be granted in every court case victory. I and two other people won a Circuit Court Case on three Counts of Open Meetings Act violations against each of us. Declaratory relief was granted, but not Injunctive relief. The problem with this is that the violations continue. This would not have occurred if Injunctive relief would have been granted.

My attorney, Mr. Philip L. Ellison, is a specialist in the area of the Open Meetings Act. Mr. Ellison told me from the start that judges don't like to grant Injunctive Relief. I was told the reason for this is because judges are "elected" into their position with votes from the people. The judges know that telling elected officials of municipalities what to

do may cost them votes and support in the future. As a result, judges simply say "You are correct; your rights were violated," which is Declaratory Relief. The cases are left at this, and municipalities are free to continue violating your rights.

Attorney Philip L. Ellison and I agree that it would be best if the Michigan Open Meetings Act made it so each proven violation of the Michigan Open Meetings Act results in an Injunctive Order instructing the person or people that violated the Open Meetings Act not to violate that law again without some form of penalty. This should be a penalty that can be enforced on a civil level in a personal way – in the same way that a criminal penalty is enforced in a personal way.

In the township I serve on, the board members believe they can do whatever they want – at the expense of the taxpayers. Over \$13,000 was spent in the lawsuit the township lost in court. The board members literally brag that they don't care, because it put money into the pocket of their friend – the attorney of the township. These board members don't mind that don't care that Declaratory Relief was granted. Their attitude is "We weren't instructed not to do it again, and we don't care if we get caught doing it again, because we will just fight it in court and keep our attorney friend employed."

But those corrupt board members wouldn't be behaving in such a selfish way if Injunctive Relief were granted, along with the promise that if the Injunctive Order were ignored there would be penalty that will have a personal effect on the pocketbook of the person violating the law.

Another reason we need to make it so Injunctive Relief is always granted (and also allows for Declaratory Relief to be added with it) is because we need to make it so immoral politicians can't play Public Relations games in order to make it look like the winning party lost or to make it seem like nothing bad happened. For example, I and two other residents won three different Circuit Court Counts dealing with a variety of Open Meetings Act violations. Rather than telling the public "The Plaintiff's were granted Declaratory Relief in a court victory" the newspapers always reported "No Injunctive relief and no Monetary relief was granted." This was a PR game that the losing attorneys of the losing politicians used.

In reality, no money could possibly be gained on those three violation Counts, and no money was requested. The judge simply said "No monetary relief will be granted," even though the judge knew it was impossible for money to be obtained and the judge knew no money was requested. The truly frustrating part was that the township staff members that violated the Michigan Open Meetings Act had a reason for refusing to admit their obvious guilt, and they had a reason for refusing to save some money with a settlement. The other board members wanted to try to blame the high cost of the legal fees on the Plaintiffs – me and the two residents who also had their rights violated. They thought this would be useful in trying to do a recall against me.

I'm telling you this so you truly understand how important it is for it to be 100% mandatory for Injunctive Order Relief be obtained in every court victory regarding a violation of the Michigan Open Meetings Act. Don't just have a judge say "Yes, the rights of the Plaintiff were violated" with Declaratory Relief. Make it so the judge issues that same Declaratory Relief coupled with Injunctive Relief that orders the defendants who violated the law not to do it again. This will remove political pressure from the judge, and it will allow justice to occur.

* We should make it so the Open Meetings Act specifically does NOT require a Name or an Address to be given in order to publicly speak. Currently the Open Meetings Act says there is no requirement such as Name or Address to attend a meeting. However, the potential for a board to write a Policy demanding you to give a Name and/or Address in order to speak publicly is a possibility. This is wrong.

One of the areas I and two others won in court dealt with a violation of MCL 15.263(5) where the township required some people to give their name and others were not required to do so. In one instance, a man did not want to give his name or address, because the people in the audience had threatened him. The man didn't want these bullies to have his address, and the man knew that if people have your name it is easy to find your address online. The man was promised 3 Minutes to speak. After 1 Minute 44 Seconds, the man was told to sit down if he didn't give his name. The supervisor did this because she didn't want him speaking in a way that criticized the townships attorney.

The township Clerk often arrogantly says "There's no Open Meetings Act requirement for people to attend, but we can make a requirement for people to give their name and address as part of our reasonable policy." The Circuit Court Judge ruled in our favor and said that in today's society there are many reasons why a person would want to remain anonymous while publicly speaking.

If a person needs to provide a name or address to a board in order to achieve something, this can be done privately before or after a meeting; it does not need to be done publicly as a condition that determines whether you are allowed to take advantage of your right to publicly speak or not. Please make it so the Michigan Open Meetings Act includes a rule that boards are not allowed to require a person to give a name or an address to publicly speak.

* We need to do something about that section about "Reasonable" rules. It is not "reasonable" for a board that does not like to be recorded to write a policy telling people they cannot record while seated. The board I serve on has put a rule into place saying you must be recording behind the last row of chairs. In other words, you must literally be standing if you want to record a meeting! This is definitely UNREASONABLE!

Prior to one meeting, I was speaking with an older woman with a desire to record a meeting from her seat in the front row. This woman planned on using her small cell

phone that would not have blocked the view of anybody while she recorded. But the township clerk told this woman she needed to go stand in the back in order to record! The woman said she wasn't in good enough shape to stand in the back that long, so she couldn't record.

During the meeting, I brought up the point that many cell phones and smaller cameras don't have the Optical Zoom power needed to record from that distance. The supervisor arrogantly laughed and said "Then they will need to get better recording devices." It is obviously unreasonable to require people to spend hundreds of dollars in order to take advantage of their statutory right to record a public meeting.

In the 21st Century era of Digital Recording, it needs to specifically be pointed out that people have the right to record meetings from their seats using devices such as cell phones and cameras, as long as they are not unreasonably blocking the view of others. People sitting on the outer perimeters of the room should be allowed to use a tripod as long as the tripod is not elevated to a height higher than the person's head (because that means the tripod isn't blocking anybody's view in an unreasonable way). Monopods should also be able to be used by any seat – even interior seats – because monopods can be placed in between a person's feet and don't require much space. As long as the monopod isn't elevated higher than the user's head, it should be reasonable to use a monopod to record a meeting while seated. Elevating a tripod or monopod higher than a person's head should be allowed from the back of the room, though.

These are specific and strict subjects that literally need to be mentioned in the Michigan Open Meetings Act, because of the 21st Century age of technology we live in today. There are still board members that do not want to be recorded. These board members twist "generic" wording such as "reasonable rules" currently used in the Open Meetings Act to make it very difficult if not impossible to honestly record meetings. These specific rules would make it so people can take advantage of their right to record as the Michigan Open Meetings Act originally intended.

* It specifically needs to be mentioned that board members have the right to record the audience. The St. Clair County Prosecutor told me to do so, because I felt in danger and my cameraman had his life threatened. Also, Selective Enforcement evidence can be gathered by recording from the front of the room – recording the faces of people.

The board I am on literally has their friends shake popcorn bags next to my video camera in the back of the room, just to make it difficult to hear me when I speak. When I put a camera on the desk in order to record people doing that, the other four board members created a policy saying "all recording devices must be placed in the back of the room behind the last row of chairs." When I followed the advice of the St. Clair County Prosecutor and placed the camera on the desk anyways, they repeated "censured" me, in order to come up with reasons to recall me. This should not be allowed.

Also, the board I serve on allows "Selective Enforcement" to occur. Only two people have ever been asked to leave a meeting room – and both were my cameraman! On one occasion, my cameraman was told to leave because he had the camera on prior to the start of the meeting! This was a Federal Law violation of the First Amendment, but the township actually believes their "Local" Policy has the ability to supersede Federal Law that allows people to publicly record elected officials doing their duties.

That board I serve on does not want me to be able to prove Selective Enforcement, so that is why they don't want my camera placed on a desk. They say "The Michigan Open Meetings Act says you can record the Public Body, not the Audience." But these people seem to forget that Statutory Law allows us to Publicly Record. The Open Meetings Act needs to prevent these arguments by making it clear that people in a public audience at a public meeting are allowed to be Publicly Recorded.

The Open Meetings Act also needs to specify that board members have the right to record audience members – this comes directly from St. Clair County Prosecutor Michael Wendling who heard my story about how the life of my cameraman was threatened.

* The FOIA Penalty associated with not complying with 5-day and 10-day rules needs to be made more severe. Clerk Lori Russelburg of Cottrellville Township has still not given me 5-day notice, and it has now been over 30 days. Two other people in Cottrellville have also told me that it's been two weeks and they heard no 5-day notice.

* It needs to be made clear in the Michigan Open Meetings Act that in order for a rule to be considered "reasonable," it must apply to "everyone" (i.e., it cannot be Selectively Enforced in a Discriminatory way). In other words, you cannot simply ask Board Members to go to the podium; you need to ask everybody.

In Cottrellville Township, the other four board members removed Board Comments from the Agenda, because "Only Michael Zoran uses it." In reality, the other board members didn't like that Board Comments is documented in the Minutes. The other four board members then said they wanted me to go to the podium in order to speak during Public Comments (where nothing is documented in the Minutes).

Speaking at the podium is fine by me, if it is enforced equally on everyone. But the friends of those board members don't like going to the podium to speak, where they are recorded and seen on TV when I broadcast the meetings on Public Access Cable and Online. The other board members outvoted me in an Unreasonable Policy saying that Board members must go to the podium in order to speak during Public Comments, but citizens are not required to speak at the podium and may speak from their seats (in order to have their back to the camera). I believe this is unreasonable. If a policy is put into place, the Michigan Open Meetings Act needs to make it 100% clear there can be

no discrimination. Writing a policy saying that only board members must speak at the podium is absurd.

* It needs to be noted that in order for a rule to be considered "reasonable," it must bring and "improvement" regarding "effectiveness" and/or and "improvement" in "efficiency" in the specific area it deals with in order to be classified as "reasonable."

For example, it is "reasonable" to ask someone to speak at a Podium if there is a microphone and speaker system in place. This will improve the effectiveness of speaking as a result of louder volume and speaking directly into a microphone that improves recording. This will also improve the efficiency of speaking because words will not need to be repeated as a result of saying "what" and "can you please repeat that" and "I can't hear you."

* The standards of the words "reasonable" above would have an impact on Cottrellville's rule that you can only record from the back, behind the last row of seats. In other words, you can only record if you are standing. Recording from a further distance like that does not improve "effectiveness" of recording; it hurts "effectiveness" with many cameras that do not have a powerful enough Optical Zoom to record from that distance. Also, most stores do not sell tripods tall enough to see over the heads of people. My 60" (5') tripod was the tallest one that ABC Warehouse carries, and it is not tall enough to see over the heads of people. I needed to purchase a 6'8" tripod in order to see over the heads of people, and they don't even sell that one online anymore! This does not improve effectiveness. As far as "efficiency" goes, by requiring people to stand in the back, there is only room for 10 people to record. This hurts efficiency, because when people can record while seated, about 40 people have the ability to record.

* There needs to be an absolutely specific wording that if any Public Participation Policy attempts to supersede Statutory or Federal Law, it is illegal. There should also be severe penalties for violations. For example, saying you cannot have a recording device turned on prior to a meeting is insane and should be a violation of the Open Meetings Act. The Cottrellville Township Board I serve on has voted this illegal policy into effect.

* It needs to be specified that "content" of speech is not something that can be "reasonably" controlled by the meeting Moderator. In other words, it should be made clear that people can speak about whatever they want. Comcast even told me if people swear during Public Comments, they will broadcast it during the Public Access TV Broadcast. But the supervisor of this board has a section of a policy that says the moderator can interrupt you for many reasons. A policy like that is not "reasonable" and does not promote "free speech." In fact, they have already lost a case regarding this part of the policy in Circuit Court. The Open Meetings Act needs to make this 100% clear.