

**OTTER LAKE WATER COMMISSION
MACOUPIN COUNTY, ILLINOIS**

ORDINANCE NO. 2010- 01

**AN ORDINANCE PERTAINING TO PUBLIC RECORDS AND IMPLEMENTING THE
FREEDOM OF INFORMATION ACT**

ADOPTED BY THE OTTER LAKE WATER COMMISSION
THIS 14 DAY OF January, 2010

Published in pamphlet form by the authority of the Otter Lake Water Commission, Macoupin
County, Illinois, this 14 day of January, 2010.

**AN ORDINANCE PERTAINING TO PUBLIC RECORDS AND IMPLEMENTING THE
FREEDOM OF INFORMATION ACT**

*BE IT ORDAINED BY THE OTTER LAKE WATER COMMISSION, MACOUPIN COUNTY,
ILLINOIS, AS FOLLOWS:*

SECTION 1: Definitions. For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL PURPOSE: The use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a “commercial purpose” when the principal purpose of the request is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.

COPYING: The reproduction of any public record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Commission.

EXEMPT MATERIALS: Materials which are exempt from disclosure pursuant to Sections 7 and 7.5 of the Freedom of Information Act. See Appendix A to this subchapter.

FREEDOM OF INFORMATION ACT or “FOIA”: The Illinois Freedom of Information Act, 5 ILCS 140/1.1 et seq.

PERSON: Any individual, corporation, partnership, firm, organization, or association, acting individually or as a group.

PRIVATE INFORMATION: Unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.

PUBLIC ACCESS COUNSELOR: The Public Access Counselor is an Illinois Attorney General Office appointee responsible for various duties described in Section 9.5 of the Illinois Freedom of Information Act and Section 7 of the Attorney General Act (15 ILCS 205/7). Contact information for the Public Access Counselor is as follows:

Public Access Bureau
500 S. 2nd Street
Springfield, Illinois 62706
217-558-0486
publicaccess@atg.state.il.us

PUBLIC RECORD: All records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the Commission.

“Public record” also includes the following:

- a. All records relating to the obligation, receipt, and use of public funds.
- b. Certified payroll records submitted to the Commission under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130/5] are public records; except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted by the Commission prior to disclosure.
- c. Arrest reports (except for arrests of persons under the age of 21 subject to the Juvenile Court Act of 1987). (See § 16 for further provisions with respect to arrest reports).
- d. Criminal history records (except for arrests of persons under the age of 21 subject to the Juvenile Court Act of 1987), including but not limited to:
 - (i) court records that are public;
 - (ii) records that are otherwise available under State or local law; and
 - (iii) records in which the requesting party is the individual identified, except as provided under Section 7(1)(d)(vi) [5 ILCS 140/7] of the Freedom of Information Act.

COMMISSION: The Otter Lake Water Commission, ADGPTV, Macoupin and Sangamon County, Illinois

SECTION 2: Policy. It is declared to be the public policy of the Commission that all persons are entitled to full and complete information regarding the affairs of the Commission. The official acts and policies of the public officials and public employees of the Commission shall be consistent with the terms of this Ordinance.

SECTION 3: Individual Privacy Protected. This Ordinance is not intended to be used to violate individual privacy or to disrupt the duly undertaken work of the Commission.

SECTION 4: Public Records Available. The Commission shall make available to any person for inspection or copying all public records, as provided in the Freedom of Information Act.

SECTION 5: Freedom of Information Act Officer. The Commission shall designate one or more officials or employees to act as its Freedom of Information Act officer (“FOIA Officer”). The Commission Attorney is designated as deputy FOIA Officer in the place and stead of the FOIA Officer if the FOIA Officer is unavailable. Except in instances when records are furnished immediately, the FOIA Officer, or designee, shall receive requests submitted to the Commission under this Ordinance and issue responses accordingly. All Commission officers and employees who receive a FOIA request from any source whatsoever shall notify the FOIA Officer within one (1) working day. If the FOIA Officer is not available, the Commission Attorney shall be notified.

Upon receiving a request for a public record, the FOIA Officer shall:

- (A) note the date the Commission receives the written request;
- (B) compute the day on which the period for response will expire and make a notation of that date on the written request;
- (C) maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and
- (D) create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

The Commission FOIA Officer and deputy shall, by July 1, 2010, successfully complete an electronic training curriculum to be developed by the Public Access Counselor and thereafter successfully complete an annual training program. Thereafter, whenever a new FOIA Officer is

designated by the Commission, that person shall successfully complete the electronic training curriculum within 30 days after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a FOIA Officer.

SECTION 6: Requests to be in Writing. All requests for inspection or copying of public records shall be in writing and shall be addressed to the FOIA Officer. The requestor shall include the following information in any request for public records:

- (A) The requestor's full name, mailing address and telephone number at which the requestor can be reached during normal business hours;
- (B) A description of the records sought, as specific as possible;
- (C) An indication of whether the records are requested for a commercial purpose and whether the requestor seeks a fee waiver; and
- (D) A statement as to whether the request is for inspection, copying, or both.

The FOIA Officer shall make available a form for use by requestors; however, no request shall be denied for failure to use the form.

All requests for inspection and copying received by the Commission shall immediately be forwarded to its FOIA Officer or designee.

SECTION 7: Fees.

(A) The Commission hereby establishes and shall charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the Commission to copy records. Such fees exclude the costs of any search for and review of the record, and shall not exceed the actual cost of reproduction and certification, unless

otherwise provided by state statute. The charge for copying shall be \$.10 per page for photocopies, \$.05 per page for computer printouts, and \$2.50 per audio tape, CD, or DVD. No fees shall be charged for the first 50 pages of black and white, letter or legal sized copies requested by a requestor. If the Commission provides copies in color or in a size other than letter or legal, it shall charge the actual cost for reproducing the records. In calculating the actual cost for reproducing records or for the use of the equipment of the Commission to reproduce the records, the Commission shall not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. The cost for certifying a record shall be \$1.00.

(B) Documents shall be furnished without charge or at a reduced charge where the Commission determines that waiver or reduction of the fee is in the public interest because furnishing information can be considered as primarily benefitting the general public. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. For purposes of this subsection, "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public. In setting the amount of the waiver or reduction, the Commission may take into consideration the amount of materials requested and the cost of copying them.

SECTION 8: Time Limit for Compliance with Request.

(A) **Compliance with Request (Non-Commercial Purpose).** The Commission shall either comply with or deny a request for public records within five business days after its receipt.

If the Commission fails to respond to a request within the requisite periods in this Section but thereafter provides the requester with copies of the requested public records may not impose a fee for such copies. If the Commission fails to respond to a request received may not treat the request as unduly burdensome under § 10. Denials shall be in writing and in accordance with § 12.

(B) **Compliance with Request (Commercial Purpose).** The Commission shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:

(1) provide to the requestor an estimate of the time required by the Commission to provide the records requested and an estimate of the fees to be charged, which the Commission may require the person to pay in full before copying the requested documents,

(2) deny the request pursuant to one or more of the exemptions set out in this Ordinance,

(3) notify the requestor that the request is unduly burdensome and extend an opportunity to the requestor to attempt to reduce the request to manageable proportions, or

(4) provide the records requested.

Unless the records are exempt from disclosure (see Appendix A to this subchapter), the Commission shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes. No person shall knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the Commission.

SECTION 9: Extension of Time Limit (Non-Commercial Purpose); Notice.

(A) The time limit prescribed in § 8(A) may be extended in each case for not more than five (5) additional business days from the original due date for any of the following reasons:

(1) The requested records are stored in whole or in part at other locations other than the office having charge of the requested records.

(2) The request requires the collection of a substantial number of specified records.

(3) The request is couched in categorical terms and requires an extensive search for the records responsive to it.

(4) The requested records have not been located in the course of routine search and additional efforts are being made to locate them.

(5) The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under the terms of the Illinois Freedom of Information Act or should be revealed only with appropriate deletions.

(6) The request for records cannot be complied with by the Commission within the time limits prescribed by the foregoing paragraph without unduly burdening or interfering with the operations of the Commission.

(7) There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.

(B) The person making a request and the Commission may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requestor and the Commission agree to extend the period for compliance, a failure by the Commission to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(C) When additional time is required for any of the above reasons, the FOIA Officer shall notify the person making the request, by letter, within the five business days after receipt of the request, of the reasons for the delay and the date by which the records will be made available or denial will be forthcoming. In no instance may the delay in processing last longer than five business days. A failure to render a decision within the time permitted for extension shall be considered a denial of the request.

(D) If the Commission fails to respond to a request within the time permitted for extension but thereafter provides the requestor with copies of the requested public records, the Commission may not impose a fee for those copies. If the Commission requests an extension and subsequently fails to respond to the request, it may not treat the request as unduly burdensome under §10.

SECTION 10: Unduly Burdensome Requests.

(A) Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the Commission, there is no method of narrowing the request, and the burden on the Commission strongly outweighs the public interest in the information. Before invoking this exemption, the Commission shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If the Commission responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in a writing signed by the FOIA Officer specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operation of the Commission. Such a response shall be treated as a denial of the request for information.

(B) Repeated requests for the same public records by the same person shall be deemed unduly burdensome. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Ordinance shall be deemed unduly burdensome.

SECTION 11: Certain Information Exempt From Inspection and Copying. Information exempted by Sections 7 and 7.5 of the Freedom of Information Act shall be exempt from inspection and copying (see Appendix A to this subchapter). If a record contains both exempt and nonexempt information, the Commission may elect to redact the information that is exempt and make the remainder of the record available for inspection and copying.

Moreover, information described in items (iii) through (vi) of subsection C. of the definition for “Public Record” may be withheld if it is determined that disclosure would: (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement agency; (ii) endanger the life or physical safety of law enforcement or correctional personnel or any other person; or (iii) compromise the security of any correctional facility.

SECTION 12: Notice of Denial of Request; Request for Review.

(A) The FOIA Officer, when denying a request for public record, shall notify the requestor, by letter, of the decision to deny the information, the reason for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial.

(B) Each notice of denial by the FOIA Officer shall inform the person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor.

(C) Each notice of denial shall also inform such person of his or her right to judicial review in accordance with Section 11 of the Freedom of Information Act.

(D) When a request is denied on the grounds that the records are exempt under the provisions of this Ordinance, the notice of denial shall specify the exemption claimed to authorize the denial and briefly explain how the exemption applies to the specified records withheld.

(E) Copies of all notices of denials shall be retained by the Commission in a single central office file that is open to the public and indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested.

(F) Any person making a request for public records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Commission fails to act within the time periods provided in § 8 and § 9.

SECTION 13: Public Access Counselor; Opinions.

(A) A person whose request to inspect or copy a public record is denied by the Commission may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. The request for review must be in writing, signed by the requester, and include (i) a copy of the request for access to records and (ii) any responses from the public body.

(B) If the Commission receives a request for records, and asserts that the records are exempt under General Exemptions (1)(C) or (1)(F) (see Appendix A of this subchapter), it shall, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part.

The notice shall include:

- (i) a copy of the request for access to records;
- (ii) the proposed response from the public body; and
- (iii) a detailed summary of the public body's basis for asserting the exemption.

(C) In accordance with FOIA, upon receipt of a notice of intent to deny from the Commission, the Public Access Counselor determines whether further inquiry is warranted. Within 5 working days after receipt of the notice of intent to deny, the Public Access Counselor notifies the Commission and the requester whether further inquiry is warranted. If the Public Access Counselor determines that further inquiry is warranted, the procedures set out in this Section regarding the review of denials, including the production of documents, shall also be applicable to the inquiry and resolution of a notice of intent to deny from the Commission. Times for response or compliance by the Commission under § 8 and § 9 shall be tolled until the Public Access Counselor concludes his or her inquiry.

(D) In accordance with FOIA, upon receipt of a request for review, the Public Access Counselor determines whether further action is warranted. If the Public Access Counselor determines that the alleged violation is unfounded, he or she so advises the requester and the Commission and no further action shall be undertaken. In all other cases, the Public Access Counselor forwards a copy of the request for review to the Commission within seven (7) working days after receipt and specifies the records or other documents that the Commission shall furnish to facilitate the review. Within seven (7) working days after receipt of the request for review, the FOIA Officer shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. If the FOIA Officer fails to furnish specified records pursuant to this Section, or if otherwise necessary, the Attorney General may issue a subpoena to any person or public body having knowledge of or records pertaining to a request for review of a denial of

access to records under the Freedom of Information Act. By statute, to the extent that records or documents produced by the Commission contain information that is claimed to be exempt from disclosure under Appendix A of this subchapter, the Public Access Counselor does not further disclose that information.

(E) In accordance with FOIA, within seven (7) working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the FOIA Officer may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor forwards a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. The requester may, but is not required to, respond in writing to the answer within seven (7) working days and shall provide a copy of the response to the Commission. In addition to the request for review, and the answer and the response thereto, if any, a requester or the Commission may furnish affidavits or records concerning any matter germane to the review.

(F) In accordance with FOIA, unless the Public Access Counselor extends the time by no more than 21 business days by sending written notice to the requester and the Commission that includes a statement of the reasons for the extension in the notice, or decides to address the matter without the issuance of a binding opinion, the Attorney General examines the issues and the records, makes findings of fact and conclusions of law, and issues to the requester and the Commission an opinion in response to the request for review within 60 days after its receipt. The opinion is binding upon both the requester and the Commission, subject to administrative review under Section 11.5 of the Freedom of Information Act [5 ILCS140/11.5].

Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the FOIA Officer shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 11.5 of FOIA. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 11.5 of FOIA. If the Commission discloses records in accordance with an opinion of the Attorney General, it is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA.

(G) In accordance with FOIA, the Attorney General may also issue advisory opinions to the Commission regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Commission Chairman or the Commission Attorney, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Commission in order to assist in the review. If the Commission relies in good faith on an advisory opinion of the Attorney General in responding to a request, it is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.

SECTION 14: Granting of Request; Procedure for Inspection. When a freedom of information request is granted, the documents will be made available for inspection at the Commission Office during regular business hours. Copies shall be made upon request as set forth in § 7.

SECTION 15: Written Request Not Required for Certain Documents. The following documents shall be made available for inspection and copying without a written request; however,

the requestor shall contact the FOIA Officer or designee in advance to set a mutually convenient time. These documents, if copied, shall be subject to the copying fee set forth in § 7:

- (A) Ordinances and written resolutions.
- (B) The journal of the Board of Commissioners, not including executive session minutes.
- (C) Any personnel code, building code, other technical code, or any other regulation of the Commission adopted by the Commission, whether by ordinance, resolution or otherwise.

SECTION 16: Dissemination of Information About Public Bodies. The Commission shall prominently display at the Commission Office, make available for inspection and copying without charge, and shall send through the mail if requested, each of the following:

(A) A brief description of itself, which will include, but not be limited to a short summary of its purpose, a block diagram giving its functional subdivisions, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees, and the identification and membership of any board, commission, committee, or council which operates in an advisory capacity relative to the operation of the Commission, or which exercises control over its policies or procedures, or to which the Commission is required to report and be answerable for its operations;

(B) A brief description of the methods whereby the public may request information and public records, a directory designating for the FOIA Officer or officers, the address where requests for public records should be directed, and any fees allowable under § 7; and

The Commission shall also post this information on its website, if one is maintained.

SECTION 17: List of Categories of Records. As to public records prepared or received after the effective date of this Ordinance, the FOIA Officer shall maintain and make available for

inspection and copying a reasonably current list of all types or categories of records under its control. The list shall be reasonably detailed in order to aid persons in obtaining access to public records pursuant to this Ordinance. The FOIA Officer shall furnish upon request a description of the manner in which public records stored by means of electronic data processing may be obtained in a form comprehensible to persons lacking knowledge of computer language or printout format.

SECTION 18: Appendix A:

EXEMPT MATERIALS PER THE FOIA (AS AMENDED 2009)

**Section 7 of FOIA:
General Exemptions**

1. The following shall be exempt from inspection and copying:
 - A. Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.
 - B. Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.
 - C. Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.
 - D. Records in the possession of the Commission created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:
 - (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;
 - (ii) interfere with active administrative enforcement proceedings conducted by the Commission that is the recipient of the request;

(iii) create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;

(vi) endanger the life or physical safety of law enforcement personnel or any other person; or

(vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.

E. Records that relate to or affect the security of correctional institutions and detention facilities.

F. Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the Commission Chairman.

G. Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.

(i) All trade secrets and commercial or financial information obtained by the Commission, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately

held company may cause competitive harm.

Nothing contained in this Paragraph (G) shall be construed to prevent a person or business from consenting to disclosure.

H. Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the Commission, until an award or final selection is made. Information prepared by or for the Commission in preparation of a bid solicitation shall be exempt until an award or final selection is made.

I. Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this Paragraph (I) does not extend to requests made by news media as defined in Section 2 of the FOIA when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

J. Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security.

K. Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

L. Communications between the Commission and its attorney or auditor representing the Commission that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Commission in anticipation of a criminal, civil or administrative proceeding upon the request of the Commission Attorney advising the Commission, and materials prepared or compiled with respect to internal audits of the Commission.

M. Records relating to the Commission's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed.

N. Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides,

documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

O. Records relating to collective negotiating matters between the Commission and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

P. Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment.

Q. The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

R. Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

S. Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Commission responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

T. Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

U. Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

V. Maps and other records regarding the location or security of generation,

transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency.

W. Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

2. A public record that is not in the possession of the Commission but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the Commission, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the Commission, for purposes of the FOIA.

**Section 7.5 of FOIA:
Statutory Exemptions**

To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

A. All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act [20 ILCS 700/4002].

B. Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act [75 ILCS 70/1 et seq.].

C. Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

D. Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act [410 ILCS 325/1 et seq.].

E. Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act [420 ILCS 44/30].

F. Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535/55].

G. Information the disclosure of which is restricted and exempted under Section 50

of the Illinois Prepaid Tuition Act [110 ILCS 979/50].

H. Information the disclosure of which is exempted under the State Officials and Employees Ethics Act [5 ILCS 430/1-1 et seq.], and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

I. Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code [65 ILCS 5/11-21.5-5].

J. Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act [50 ILCS 751/1 et seq.].

K. Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code [625 ILCS 5/11-212].

L. Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act [210 ILCS 28/1 et seq.].

M. Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act [765 ILCS 77/70 et seq.], except to the extent authorized under that Article.

N. Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act [725 ILCS 124/10 and 725 ILCS 124/15]. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

O. Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act [410 ILCS 525/4].

P. Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act [70-3615/2.11] or the St. Clair County Transit District under the Bi-State Transit Safety Act [45-111/1 et seq.].

Q. Information prohibited from being disclosed by the Personnel Records Review Act.

R. Information prohibited from being disclosed by the Illinois School Student Records Act [105 ILCS 10/1 et seq.].

S. Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act [220 ILCS 5/5-108].

SECTION 19: Publication and Effective Date. The Clerk shall forthwith publish this Ordinance in pamphlet form. It shall be effective upon its passage, approval and publication and required by law.

PASSED this 14 day of January, 2010.



CHAIRMAN

ATTEST:



Clerk

AYES: Bivin, Butcher, Hatalla, Jomback, Maynerich, McCarthy, Rettberg & Whitson
NAYS: 0

PASSED: 8-0
APPROVED: 8-0

ABSENT: 0

ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS.
COUNTY OF MACOUPIN)

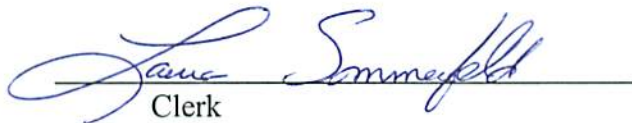
I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk of the Otter Lake Water Commission, Macoupin County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 2010- 01, adopted by said Commission on the 14 day of January, 2010, said Ordinance being entitled:

**AN ORDINANCE PERTAINING TO PUBLIC RECORDS AND IMPLEMENTING THE
FREEDOM OF INFORMATION ACT**

I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Commission, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Commission this 14 day of January, 2010.


Clerk

STATE OF ILLINOIS)
) ss.
COUNTY OF MACOUPIN)

CERTIFICATE

I certify that I am the duly elected and acting Clerk of the Otter Lake Water Commission, Macoupin County, Illinois.

I further certify that on January 14, 2010, the corporate authorities of such Commission passed and approved Ordinance No. 2010-01 entitled:

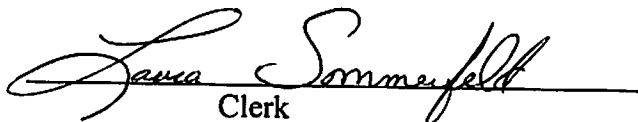
AN ORDINANCE PERTAINING TO PUBLIC RECORDS AND IMPLEMENTING THE FREEDOM OF INFORMATION ACT

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2010-01 including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the offices of the Commission in Virden, Illinois, commencing on January 14, 2010, to continue for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the Commission offices.

DATED at the offices of the Otter Lake Water Commission, Virden, Illinois, this 14 day of January, 2010.

(SEAL)


Clerk