OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 26, 2025

Via electronic mail
[redacted]

Via electronic mail
The Honorable Christina Codo
President
Board of Commissioners
Winnetka Park District
540 Hibbard Road
Winnetka, Illinois 60093
ccodo@winpark.org

RE: OMA Request for Review – 2024 PAC 81208

Dear [redacted] and Ms. Codo:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2022)).

On April 26, 2024, [redacted] submitted a Request for Review alleging that the Board of Commissioners (Board) of the Winnetka Park District (District) violated OMA in connection with the censure of a Board member. Specifically, [redacted] alleged that before an April 25, 2024, meeting in which the Board member was censured, the Board improperly communicated and deliberated about the proposed censure without complying with the requirements of OMA. [redacted] asserted that "the events and comments at the meeting * * * demonstrate that these five members of the Board coordinated their efforts in a manner that required ongoing discussions both among the Members

and District staff and counsel."[1] A recording of the meeting posted on the District's website shows that the Board approved a one-year censure resolution, which had been prepared in advance of the meeting, detailing violations of the Board's code of ethics. Several Board members made what appear to be prepared statements in support of the resolution, while another Board member stated that she had no knowledge of the resolution until she saw it on the meeting agenda. The censured Board member also read a statement, saying she inferred she was the subject of the censure resolution upon seeing it on the agenda but received no prior notice of its contents and had no communications about it with other members.[2] The Board approved the censure resolution by a 5-2 vote.

On May 9, 2024, this office sent a copy of the Request for Review to the Board and asked it to provide copies of all written communications and records related to the proposed censure and conduct of the censured Board member which were created, sent, or received by Board members and/or District staff before the April 25, 2024, meeting. This office also requested a response to the allegations in the Request for Review which explained the origin of the proposed censure and how it was developed and reduced to written form. In addition, this office requested a description of any verbal communications among Board members concerning the proposed censure, specifying when and where those discussions occurred and identifying the Board members who participated, and copies of any recordings or related documentation of the discussions.

On May 16, 2024, the Board's attorney furnished a written response along with copies of communications related to the censure and an affidavit from the Board President; the Board's attorney indicated that contents of certain attorney-client communications were redacted. On May 24, 2024, this office forwarded the written response to [redacted]. On June 3, 2024, [redacted] submitted a reply and the following day he submitted an additional reply requesting that the District provide unredacted copies of the communications for this office's confidential review. This office received unredacted copies of those records in connection with a related FOIA Request for Review (2024 PAC 81740) in which [redacted] disputed the District's partial denial of those records in response to his Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq*. (West 2022)) request.

On December 23, 2024, the Board furnished an additional affidavit from the Board President in response to this office's request for additional details concerning communications among Board members related to the censure before the April 25, 2024,

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[1]Letter from [redacted] to Public Access Counselor, Office of the Attorney General (April 26, 2024).

[2]Winnetka Park District Board of Commissioners, Regular Meeting, April 25, 2024, *available at* https://winpark.diligent.community/document/11892/?splitscreen=true&media=true

meeting. Additional clarification was provided on February 11, 2025, and additional records and a confidential explanation were provided on February 13, 2025.[3]

DETERMINATION

It is "the public policy of this State that its citizens shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way." 5 ILCS 120/1 (West 2022). "The Open Meetings Act provides that public agencies exist to aid in the conduct of the people's business and that the intent of the Act is to assure that agency actions be taken openly and that their deliberations be conducted openly." *Gosnell v. Hogan*, 179 Ill. App. 3d 161, 171 (1989).

For the requirements of OMA to apply, a gathering must constitute a "meeting" as defined by section 1.02 of OMA (5 ILCS 120/1.02 (West 2022)):

> "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 is comprised of seven members. Accordingly, four members of the Board constitute a quorum, and a majority of the quorum is three members. Therefore, any gathering, whether in-person or electronically involving at least three members of the Board which is held for the purpose of discussing public business would ordinarily constitute a meeting of the Board that would be subject to the procedural safeguards and requirements of OMA.

The correspondence provided to this office mostly consisted of exchanges between the Board President and the Board's attorney and/or Park District staff. The correspondence did include copies of e-mails that were each sent within minutes of each other by the Board President to individual Board members asking to discuss an e-mail sent by the censured Board member to the president of the Village of Winnetka (Village) Board of Trustees. The Board's response to this office stated that the Board's attorney "prepared the original draft of

[3]With the exception of the written response to the allegations in the Request for Review, this office is precluded from disseminating copies of the affidavits and other materials furnished by the Board. 5 ILCS 120/3.5(g) (West 2022) ("Records that are obtained by the Public Access Counselor from a public body for purposes of addressing a request for review under this Section 3.5 may not be disclosed to the public, including the requester, by the Public Access Counselor.").

the body of the [censure] resolution and modified it upon receiving feedback from Commissioner [and Board President Christina] Codo."[4] An affidavit prepared by the Board President indicated that before the April 25, 2024, meeting, she "communicated with other Commissioners regarding the Censure strictly on a one-on-one basis regardless of whether my communications were spoken or in writing, including electronic communications."[5] The affidavit further stated, among other things, that the Board President prepared an exhibit to the censure resolution with examples of alleged misconduct, including the e-mail from the censured Board member to the Village President, and hand-delivered drafts of the censure resolution to other Board members on a one-on-one basis. The Board president averred that she "did not confer, orally or in writing (including electronic communications), contemporaneously with a majority of a quorum of the Board of Park Commissioners regarding the Censure[ ]" or "engage in an informal vote related to the Censure."[6]

In his reply, [redacted] noted that the Board's response did not describe the origin and development of the proposed censure. He inferred the following chain of events:

> [T]he Board President, apparently, through a series of serial verbal interactions, discussed the Resolution with a majority of a quorum of the Board, each individual member "contemporaneously interacting" with the Board President, who then repeated this "contemporaneously interactive" discussion with the next member, likely sharing elements of prior interactions, as this public matter was privately and serially deliberated.
>
> At the conclusion of these "deliberations," the Board President contacted Counsel, and provided "feedback" on the draft Resolution, which was then modified by Counsel. It is not plausible to believe that this "feedback" was the Board President's alone. Rather, it almost certainly represented a "consensus" of opinions and suggestions that the Board President compiled as she deliberated the Resolution with a majority of Board members.[7]

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[4]Letter from Adam B. Simon, Ancel Glink, to Steve Silverman, Bureau Chief, Public Access Bureau (May 16, 2024), at 2.

[5]Codo Aff. ¶ 4, May 15, 2024.

[6]Codo Aff. ¶¶ 6-7, May 15, 2024.

[7]Letter from [redacted] to Steve Silverman, Bureau Chief, Public Access Bureau (June 3, 2024), at 6-7.

In response to this office's request for additional details, on December 23, 2024, the Board provided another affidavit which indicated that a few days before the April 25, 2024, meeting, the Board President forwarded to four other members the e-mail that the censured Board member sent to the Village President. The affidavit stated that the Board President held one-on-one phone conversations with other Board members "related to each commissioner's own feelings about the * * * E-mail[,]"[8] which was referenced in the addendum to the censure resolution as an example of alleged misconduct. The Board President stated she "did not engage in consensus building during these communications."[9] She stated that other Board members did not convey how they intended to vote, and that she "received no assurances that any other commissioner would agree that conduct described in the Censure was severe enough to warrant public condemnation."[10] In response to this office's request for additional clarification, counsel for the Board provided an e-mail in which the Board President indicated that she held brief individual discussions with Board members when the draft resolution was distributed. The Board president stated that she advised other members to do their own thinking and that she did not have advance knowledge of how they would vote during the meeting or what their comments would be. Records provided to this office indicate that before the April 25, 2024, meeting, another Board member asked to have one-on-one discussions with two additional Board members other than the Board President; counsel for the Board provided details of those discussions confidentially.

The information that the Board provided to this office does not indicate that at least three members of the Board held a group discussion related to the resolution or collectively reached a consensus concerning the resolution before the April 25, 2024, meeting. While the proximity of one-on-one discussions between Board members is unclear, the Board asserts that those discussions cannot constitute a "meeting" under the definition of that term in OMA because they did not involve at least a majority of a quorum of the Board. [redacted] contends that "it is clear that the serial one-on-one verbal communications between the Board President and a majority of Board members were, in fact, a 'contemporaneous interactive' meeting, and are subject to the requirements of the OMA."[11]

In support of that argument, [redacted] cites authority from other jurisdictions that recognized a series of communications that each directly involve less than a quorum of the members of a public body—as ordinarily required to trigger the requirements of those states' versions of OMA—could constitute a meeting under certain circumstances. In Kan.

[8]Codo Aff. ¶ 4.C, December 19, 2024.

[9]Codo Aff. ¶ 4.C, December 19, 2024.

[10]Codo Aff. ¶¶ 4.F, 5, December 19, 2024.

[11]Letter from [redacted] to Steve Silverman, Bureau Chief, Public Access Bureau (June 3, 2024), at 11.

Op. Att'y Gen. 98-26 (1998), at 1-2, the Kansas Attorney General provided the example of a "calling tree", in which the head of a public body proposes that each of the members telephone each other individually or in small groups to discuss their opinions with each other, and then individually calls each of the members to survey their opinions in advance of a formal vote at the next open meeting. The information provided to this office does not indicate that such maneuvering occurred in this matter. The Board's President indicated that she did not seek to form a consensus or receive assurances to support the censure resolution, and that she was unaware how other Board members would vote at the April 25, 2024, meeting.

Next, [redacted] pointed to the Washington appellate court ruling that a plaintiff established a prima facie case for a violation of Washington's OMA statute[12] based on group e-mails in which e-mails were circulated amongst members of a school board. *Wood v. Battle Ground School District*, 107 Wn. App. 550, 565 (Wash. Ct. App. 2001). Because those circumstances "involved a quorum of the five member Board[ ]" participating in an "active exchange of information and opinions in these e-mails, as opposed to the mere passive receipt of information," the court held there were "genuine issues of material fact as to whether the members held a meeting * * * by e-mail[ ]" under Washington's version of OMA. *Wood*, 107 Wn. App. at 566. [redacted] asserts this finding also has relevance to verbal communications that are more likely to involve active exchanges of information than e-mails.

Based on this office's review of the correspondence exchanged by members of the Board that was provided to this office, none of it reflected deliberations and none of it included contemporaneous interactive communications amongst three or more Board members discussing public business. The Public Access Bureau has consistently determined that at least a majority of a quorum of the members of a public body must actively interact with each other in group e-mails during a short duration to trigger the requirements of OMA. *Compare* Ill. Att'y Gen. Req. Rev. Ltr. 24827, issued June 8, 2015, at 2-3 (e-mail exchanges involving no more than two members of a seven-member body and e-mails sent to three or more members that did not elicit responses in which a majority of a quorum discussed public business did not violate OMA), *with* Ill. Att'y Req. Rev. Ltr. S-0478, issued December 27, 2021, at 7 (three members of a public body held a meeting when one member sent a group e-mail seeking input from three members and two of the members sent replies to all the other members within a period of 40 minutes). To the extent that [redacted] attempts to extrapolate the *Wood* court's analysis to apply to the Board's verbal communications, its relevance is limited by different types of communications and definitions of the term "meeting[.]" The *Wood* court noted that the Washington statute "simply defines 'meeting' as 'meetings at which action is taken.' [Citation.]" *Wood*, 107 Wn. App. at 566. The "general definition of 'meeting,' combined with the directive to liberally construe the" Washington OMA led the court to "conclude that the legislature intended a broad definition of the word 'meeting.'" *Wood*, 107 Wn. App. at 562. In contrast and as discussed in

[12]Wash. Rev. Code ch. 42.30 (West 1996).

more detail below, Illinois FOIA plainly and unambiguously defines a "meeting" as a "gathering" of a majority of a quorum of the members of a public for the purpose of discussing public business.

[redacted] also cited a California appellate court case in which members of a public body were alleged to have "'participated in a one-to-one telephonic poll initiated by'" its attorney "'for the purpose of obtaining a collective commitment or promise to approve" a property transfer. *Stockton Newspapers v. Redevelopment Agency*, 171 Cal. App. 3d 95, 99 (Cal. App. 1985). The trial court granted summary judgment, ruling that the discussions did not violate California's version of OMA.[13] *Stockton Newspapers*, 171 Cal. App. 3d at 100. The appellate court reversed, holding that the allegation was "reasonably susceptible to the construction that each of the defendants, * * * concurred in the purpose of arriving at a collective commitment through the medium of the serially conducted telephonic poll. If a quorum of the members of the legislative body so intended to unite in an agreement to agree, a violation of the Brown Act would be established." *Stockton Newspapers*, 171 Cal. App. 3d at 103. This is factually distinguishable from the communications reviewed by this office and the descriptions of one-on-one discussions held by individual Board members. There is no evidence showing that a quorum or a majority of a quorum of the Board collectively reached an agreement or manifested a consensus outside of an open meeting.

To the extent that the Board President sought input from Board members concerning the conduct of the Board member who was the subject of the censure, those circumstances more closely align with another case [redacted] cited. In *Del Papa v. Board of Regents of University & Community College System of Nevada*, 114 Nev. 388, 391 (Nev. 1988), the chairman of a board circulated a draft of a media advisory condemning comments by another member of the board along with a memorandum seeking feedback which stated that "no release would occur without Board approval." After other members responded to the chairman and/or the board's media representative by telephone, the chairman decided against issuing the advisory. *Del Papa*, 114 Nev. at 391. An ensuing lawsuit alleged that the communications violated Nevada's version of OMA,[14] which specifically prohibited "the use of electronic communication to 'circumvent the spirit' of" that law. *Del Papa*, 114 Nev. at 394-95. Based in part on the legislative history of that provision, the court held:

> [A] quorum of a public body using serial electronic communication to deliberate toward a decision or to make a decision on any matter over which the public body has supervision, control, jurisdiction or advisory power violates the Open Meeting Law. That is not to say that in the absence of a quorum, members of a public body cannot privately discuss public issues or even

[13]Cal. Gov. Code § 54950.5 (West 1984).

[14]Nev. Rev. Stat. ch. 241 (West 1990).

> lobby for votes. However, if a quorum is present, or is gathered by serial electronic communications, the body must deliberate and actually vote on the matter in a public meeting. *Del. Papa*, 114 Nev. at 400.

The court went on to conclude that "[b]ecause the Board utilized University resources, because the advisory was drafted as an attempted statement of University policy, and because the Board took action on the draft, we hold that the Board acted in its official capacity as a public body[,]" and violated OMA by choosing "to take a position on the advisory, yea or nay, via a non-public vote[.]"

To be sure, a public body may violate OMA by making and implementing a final decision through a series of one-on-one communications as the board apparently did in *Del Papa*, when it collectively decided not to release the advisory. Section 2(e) of OMA (5 ILCS 120/2(e) (West 2023 Supp.)) provides that "[n]o final action may be taken at a closed meeting. Final action shall be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted." *See also Lawrence v. Williams*, 2013 IL App (1st) 130757, ¶ 21 (electoral board violated OMA when two of three members signed a written decision before a meeting and only one member attended the meeting where the decision was issued). Unlike in *Del Papa* and *Williams*, no evidence provided to this office shows that the Board held a non-public vote or collectively manifested a consensus in private before voting to approve the censure in open session during the April 25, 2024, meeting. It is, however, undisputed that several Board members held individual discussions related to the proposed censure before the meeting and were provided with drafts of the censure resolution, while two other members were unaware of that proposal until or shortly before the meeting.

The North Carolina appellate court has considered roughly similar circumstances and found no violation of that state's version of OMA.[15] *Hildebran Heritage & Development Ass'n v. Town of Hildebran*, 252 N.C. App. 286, (N.C. Ct. App. 2017). There, a member of a city council acknowledged holding one-on-one discussions with the mayor and other members of the council about amending a meeting agenda to include the demolition of a building, but did not contact another member who held an adverse position. *Hildebran Heritage & Development Ass'n*, 252 N.C. App. at 300. The court concluded that even if the councilman held one-on-one discussions with other members to avoid meeting in public, those discussions did not violate OMA because "the vote itself took place at the 26 January 2015 meeting, at which the public was present, minutes were taken, and the votes of the Town Council were recorded." *Hildebran Heritage & Development Ass'n*, 252 N.C. App. at 293.

Courts in other jurisdictions have held that members of public bodies do not illegally meet in violation of OMA by holding one-on-one discussions or gathering in small

[15]N.C. Gen. Stat. §§ 143-318.9 *et seq.* (2005).

groups that do not include a sufficient number of members to constitute a meeting under the plain language of their state statutes' definitions of "meeting." In *Willems v. State*, 2014 Mont. 82, ¶¶ 9-10 (Mont. 2014), the Montana Supreme Court analyzed whether members of a commission that determined the boundaries of legislative districts violated OMA by holding individual discussions about a proposed amendment to assign a state senator to a particular district before publicly voting to approve a redistricting plan that included the amendment. The Montana statute defined "meeting" as "'the convening of a quorum of the constituent membership of a public agency * * * to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction or advisory power.'"[16] The court acknowledged that courts in certain other states have recognized a so-called "'constructive quorum'" rule prohibiting a majority of members from engaging in one-on-one discussions about public business, but held that such an interpretation was not supported by the plain language of the Montana OMA in the absence of evidence that commissioners reached an agreement in private:

> Even liberally construing the statute, we determine that the language of [OMA], is plain and unambiguous, and that the definition of "meeting" does not include "serial one-on-one discussions." * * *. There is no evidence that a majority of Commissioners reached any agreement regarding the Jones agreement prior to the February 12 meeting, and no decisions were made outside the public meeting. *Willems* 2014 Mont. 82, ¶ 25.

The court went on to conclude that the one-on-one discussions were not subject to OMA "because a majority of commission members never 'convened' or 'deliberated' as a 'public body' outside of a public meeting." *Willems* 2014 Mont. 82, ¶ 25.

Similarly, the Indiana appellate court held that the University of Indiana Board of Trustees did not violate that state's Open Door Law[17] when the board president held back-to-back gatherings of two groups of trustees, each comprising less than a quorum of the board, to update them on an investigation and discuss alleged misconduct by basketball coach Bobby Knight. *Dillman v. Trustees of Indiana University*, 848 N.E.2d 348, 350 (Ind. Ct. App. 2006). The board president testified that "'he deliberately gathered with fewer than a quorum of the Trustees "to exclude any impropriety with respect to the Open Door Act."' *Dillman*, 848 N.E.2d at 350. The court declined to find a violation despite characterizing the board's conduct as "in direct contravention to the public policy behind the Open Door Law. While a more open process in matters of governance such as this might be preferable, the legislative branch of our state government has spoken. The law does not prohibit this conduct." *Dillman*, 848 N.E.2d at 352. The court observed that "the legislature has specifically defined 'meeting' under the Open Door

[16]Mont. Code Ann. § 2-3-202 (West 2012).

[17] Ind. Code § 5-14-1.5-1 (2002).

Law as 'a gathering of a majority of the governing body….' Ind. Code § 5-14-1.5-2(c). Thus, without a majority present, no meeting occurs for purposes of the Open Door Law." *Dillman*, 848 N.E.2d at 351.

Likewise, in *Slagle v. Ross*, 125 So. 3d 117, 126 (Ala. 2012), the Alabama Supreme Court held that three groups of school board members each comprising less than a quorum of the school board did not violate Alabama's version of OMA[18] by holding successive gatherings with the superintendent to discuss goals for the school district because the statute "clearly defines the term 'meeting' to include a gathering of a majority of the members [of] a governmental body. In the instances challenged in this case, no such gatherings of the Board occurred so as to constitute a meeting[.]" The court emphasized that it was "not free to take up [the plaintiff's] invitation to provide a 'liberal construction' of the term 'meeting' as defined in the statute because the language of the Act defining that term is plain and unambiguous." *Slagle*, 125 So. 3d at 125. The court acknowledged that courts in other jurisdictions had construed the term "meeting" more broadly, but stated that "in cases in which courts have applied a plain-meaning analysis to their open-meetings statutes, they have arrived at the same conclusion we arrive at in this case." *Slagle*, 125 So. 3d at 125.

Because no Illinois reviewing court has construed the definition of "meeting" more expansively, fundamental principles of statutory construction compel the same conclusion in this matter. In interpreting a statute, the primary objective "is to ascertain and give effect to the intent of the General Assembly." *Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 415 (2006). "[T]he surest and most reliable indicator of" legislative intent "is the statutory language itself, given its plain and ordinary meaning." *Board of Education of Springfield School District No. 186 v. Attorney General of Illinois*, 2017 IL 120343, ¶ 24. Where the language of a statute is clear and unambiguous, a reviewing body "may not depart from the plain language by reading into the statute exceptions, limitations, or conditions that the legislature did not express." *Hayashi v. Illinois Department of Financial & Professional Regulation*, 2014 IL 116023, ¶ 16.

The definition of "meeting in section 1.02 of OMA requires a "**gathering**, * * * of a majority of a quorum of the members of a public body held for the purpose of discussing public business[.]" (Emphasis added.) A "gathering" is defined as a "coming together of people in a group (as for social, religious, or political purposes)[.]" Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/gathering. A one-on-one verbal discussion or an e-mail or text message exchange between two members of public body is a coming together of two members in a group—not at least three members, as is required for a gathering of majority of

[18]Ala. Code § 36-25A-1 *et seq.* (West 2008).

a quorum of the seven-member Board to trigger the requirements of OMA.[19]

[redacted] asserts that "[t]o determine these serial communications should not be considered a 'meeting' under OMA, completely eviscerates the OMA."[20] As discussed above, even if a series of one-on-one conversations does not constitute a "meeting", a public body still may violate OMA by making a final decision through a series of one-on-one communications. It is apparent that Board members held one-on-one discussions concerning the censure before the April 25, 2024, meeting. Most notably, the Board President received feedback on an e-mail that the censured Board member sent to the Board president and distributed a draft of the censure resolution to some—but not all—of the other members of the Board before meeting. But the Board President expressly denied obtaining commitments or otherwise stitching together a consensus of Board members to support a censure and there is no indication that Board members otherwise *collectively* made and implemented a decision before the meeting where the Board publicly approved the censure resolution as required by OMA. Such communications simply do not constitute gatherings of a majority of a quorum of the Board or final action that is prohibited by OMA. This office cannot disregard the plain language of the statute by reading into the definition of "meeting" an exception for one-on-one discussions when two members does not constitute at least a majority of a quorum of a public body. If the General Assembly wishes to prohibit an individual member of a public body from holding individual one-on-one conversations that cumulatively add up to a majority of a quorum of the members of a public body, it would have to amend the definition of "meeting" in OMA to account for that circumstance. Accordingly, this office concludes that the Board did not violate OMA in connection with its April 25, 2024, meeting.

Despite that conclusion, the manner in which the censure resolution was addressed during the meeting understandably led [redacted] and others who submitted similar complaints to infer that a violation of OMA could have occurred. This office makes no findings as to the intentions of Board members, and notes that it is not uncommon for members of public bodies to individually consider proposals and crystallize their positions on matters to be voted on before a meeting commences. *See City of Elkhorn v. City of Omaha*, 272 Neb. 867, 881 (Neb. 2007) (OMA "does not require policymakers to remain ignorant of the issues they must

[19]This office's determination in Binding Opinion 23-003, which [redacted] cited, does not suggest otherwise. The Attorney General concluded that "[t]he requirements of OMA apply not only to those gatherings in which public bodies take formal actions, but also to discussions of public business for the purpose of collecting information." Ill. Att'y Gen. Pub. Acc. Op. No. 23-003, issued March 14, 2023, at 7. But the gathering at issue in that opinion involved an in-person gathering of three members of a library board rather than a series of one-on-one discussions. Ill. Att'y Gen. Pub. Acc. Op. No. 23-003, at 4.

[20]Letter from [redacted] to Steve Silverman, Bureau Chief, Public Access Bureau (June 3, 2024), at 12.

decide until the moment the public is invited to comment on a proposed policy. The public would be ill served by restricting policymakers from reflecting and preparing to consider proposals, or from privately suggesting alternatives."). Still, when members of a public body read prepared statements and then vote in alignment to support a resolution without those members holding back-and-forth discussions amongst themselves in open session, the circumstances may lead to the perception that the public body acted in a manner that circumvented the requirements of OMA or were inconsistent with the spirit of the Act. Board members should, therefore, be mindful of the requirements of the public policy behind OMA that favors the open discussion of public business before considering whether to engage in private communications that could be construed as inconsistent with the requirements or at least the purpose of OMA. *See* 5 ILCS 140/1 (West 2022) ("It is the public policy of this State that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business. In order that the people shall be informed, the General Assembly finds and declares that it is the intent of this Act to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly.").

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This file is closed. If you have questions, you may contact me at (312) 814-6756 or steven.silverman@ilag.gov.

Very truly yours,

[redacted]

STEVE SILVERMAN
Deputy Division Chief
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