



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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April 15, 2025

Via electronic mail

Mr. Kirk Allen
P.O. Box 593
Kansas, Illinois 61933
kirk@illinoisleaks.com

Via electronic mail

The Honorable Alicia Morales
Supervisor
Joliet Township
175 West Jefferson Street
Joliet, Illinois 60432
supervisor@joliettownship.net

RE: OMA Request for Review – 2019 PAC 61169

Dear Mr. Allen and Ms. Morales:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2022)).¹

On October 18, 2019, Mr. Kirk Allen submitted a FOIA request to Joliet Township (Township) seeking:

A copy of the closed session minutes and applicable audio recording from June 11, 2019[,] pertaining to the discussion of Road District Personnel. Considering the Township has no

¹In issuing this letter, we recognize that it is coming long after the meetings in question occurred. Because the Request for Review raises a legal question that may reoccur, however, this letter is intended to provide guidance to the requester and public body.

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authority over Road District personnel, going into closed session for that reason was not proper and we are requesting the minutes and audio recording of that portion of the closed session.^[2]

On December 26, 2019, the Township provided Mr. Allen with a copy of the requested closed session minutes and recording. The next day, Mr. Allen submitted a Request for Review to this office alleging that the Board violated section 2.06(e) of OMA³ by providing him a copy of the June 11, 2019, closed session recording without the Board determining that the closed session recording no longer requires confidential treatment or consenting to the disclosure. Mr. Allen also alleged that the Board violated section 2.06(a) of OMA⁴ by failing to record the entire June 11, 2019, closed session meeting. This office forwarded a copy of Mr. Allen's Request for Review to the Board and asked it to provide a written response to the allegations.

On January 21, 2020, the Township's attorney, Mr. James B. Harvey, provided a response on the Board's behalf, which included an affidavit from the Township Clerk. The affidavit of the Township Clerk attested that she recorded the entire June 11, 2019, closed session meeting. Subsequently, the Public Access Bureau forwarded the Board's written response to Mr. Allen. He did not reply.

Section 2.06(e) of OMA provides, in pertinent part, that "[u]nless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection[.]" Mr. Allen alleges that the Board violated section 2.06(e) of OMA by failing to make a determination that the recording did not warrant confidential treatment prior to its release. Although the Board approved the release of its June 11, 2019, closed session minutes on February 11, 2020,⁵ which ratified its prior release,⁶ the Board provided this office no information demonstrating that the Board as an entity made a determination that the verbatim recording no longer requires confidential treatment or otherwise consented to disclosure of the recording prior to disclosing the recording to Mr. Allen. In the

²E-mail from Kirk Allen to supervisor@joliettownship.net and clerk@joliettownship.net (October 18, 2019).

³5 ILCS 120/2.06(e) (West 2018).

⁴5 ILCS 120/2.06(a) (West 2018).

⁵Joliet Township Board, Meeting, February 11, 2020, Minutes 2.

⁶When a public body violates OMA, it may, in certain circumstances, remedy the violation at a subsequent meeting by conducting another vote on the matter in open session. *Board of Education of School District No. 67 v. Sikorski*, 214 Ill. App. 3d 945, 952 (1991) (concluding that public body violated OMA by approving postponement of a sale of property in closed session, but the sale was not void because the public body cured and ratified its violation at subsequent open meetings).


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future, the Board should make a determination on whether a verbatim recording no longer needs confidential treatment prior to it being released to the public.

Mr. Allen also alleged that the Board violated section 2.06(a) of OMA, which provides, in pertinent part, that "[a]ll public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording." Mr. Allen speculated that the Board did not record the entire June 11, 2019, closed session meeting based on the discussion at the end of the meeting in which the Township Clerk and the Board attorney disagreed on whether the attorney could provide confidential advice at the closed meeting after the recording was turned off. In a telephone call, Mr. Harvey informed an Assistant Attorney General in the Public Access Bureau that it was his understanding that the closed session ended without the attorney speaking off the record. In addition, the Township Clerk provided an affidavit that she recorded the entire closed session meeting. This office has not received any indication that the closed session continued after the Clerk stopped recording. Therefore, there is no basis for this office to conclude that the Board violated section 2.06(a) of OMA.

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 any questions, please contact me at 312-814-5201 or at edie.steinberg@ilag.gov.

Very truly yours,



EDIE STEINBERG
Senior Assistant Attorney General
Public Access Bureau

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cc: *Via electronic mail*
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