



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

May 16, 2025

*Via electronic mail*

Ms. Martha Firnhaber

[REDACTED]

Shelbyville, Illinois 62565  
shelbypayton6@yahoo.com

*Via electronic mail*

The Honorable Tad A. Mayhall

Chairman

Shelby County Board of Trustees

1184 N 1300 East Rd

Shelbyville, IL 62565

shcboardchair@shelbycounty-il.gov

RE: OMA Request for Review – 2025 PAC 84875

Dear Ms. Firnhaber and Mr. Mayhall:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA).<sup>1</sup> For the reasons that follow, the Public Access Bureau concludes that that the Public Safety Committee (Committee) of the Board of Trustees (Board) of Shelby County (County) violated the requirements of OMA.

On January 21, 2025, Ms. Martha Firnhaber submitted a Request for Review alleging that the Committee violated section 2.02 of OMA,<sup>2</sup> on or about December 4, 2024, when members of the Committee met with a realtor at 1112 North Morgan Street, Shelbyville, Illinois, (Morgan Street building) to discuss the possible purchase of the Morgan Street building,

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<sup>1</sup> 5 ILCS 120/3.5(e) (West 2022).

<sup>2</sup> 5 ILCS 120/2.02 (West 2022).

without providing public notice or posting an agenda for the meeting. The Public Access Bureau forwarded a copy of Ms. Firnhaber's Request for Review to the Committee and asked it to provide a detailed written response to the allegations in the Request for Review. This office also asked the Committee to clarify how many members of the Committee gathered at the Morgan Street building and to state the total number of Committee members, to explain whether public business of the Committee was discussed, deliberated on, or acted upon, and to address whether notice was posted.

On March 22, 2025, Mr. Tad A. Mayhill, Chairman of the Board and Committee member, provided a response on behalf of the Committee. On March 28, 2025, the Public Access Bureau forwarded a copy of the Committee's written response to Ms. Firnhaber; she replied on April 4, 2025. In response to additional inquiries posed by this office, on April 4, 2025, Mr. Mayhill provided additional information concerning the gathering at the Morgan Street building.

### **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 (5th Dist. 1989).

Section 2(a) of OMA<sup>3</sup> provides that "[a]ll meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." For the requirements of OMA to apply, a gathering must constitute a "meeting" as defined by section 1.02 of OMA:<sup>4</sup>

"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[.]

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<sup>3</sup>5 ILCS 120/2(a) (West 2023 Supp.).

<sup>4</sup>5 ILCS 120/1.02 (West 2022).

If a gathering of a majority of a quorum of public body members is determined to be a "meeting," then all the requirements of OMA apply, including but not limited to the proper posting of notice and an agenda, as set forth in section 2.02 of OMA.<sup>5</sup>

The mere presence of a majority of a quorum of a public body's members at a gathering does not trigger the requirements of OMA. *See University Professionals of Illinois v. Stukel*, 344 Ill. App. 3d 856, 868 (1st Dist. 2003) (acknowledging that OMA is not "triggered every time public officials meet and converse"). "Rather, the Act is designed to prohibit secret deliberation and action on business which properly should be discussed in a public forum due to its potential impact on the public." *People ex rel. Difanis v. Barr*, 83 Ill. 2d 191, 202 (1980). In addition, the requirements of OMA apply not only to those gatherings in which public bodies attempt to reach an accord or take formal actions, but also to gatherings where there are discussions of public business, including discussions that are for the purpose of collecting information. Ill. Att'y Gen. Pub. Acc. Op. No. 23-003, issued March 14, 2023, at 6-7 (determining that a board improperly held a meeting without following OMA's requirements where a majority of a quorum of the board gathered and exchanged information on issues of board business during a "Meet and Greet" gathering).

The Public Access Bureau has reviewed the materials provided by Ms. Firnhaber and the Committee. The Committee is comprised of seven members, but only six members were assigned to the Committee at the time of the gathering: Tad Mayhall, Carol Cole, Tim Morse, Teresa Boehm, Sonny Ross, and Julie Edwards.<sup>6</sup> Accordingly, four Committee members constitute a quorum, and a majority of the quorum is three members. Therefore, any gathering, either in-person or through other means of contemporaneous interactive communication, involving at least three members of the Committee which concern "public business" ordinarily constitutes a meeting of the Committee which would be subject to the procedural safeguards and requirements of OMA.

The duties and responsibilities of the Committee consist of being "a liaison between the County Board and the following departments/division: Animal Control, Sheriff's

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<sup>5</sup>Section 2.02(b) of OMA (5 ILCS 120/2.02(b) (West 2022)) provides that "Public notice shall be given by posting a copy of the notice at the principal office of the body holding the meeting or, if no such office exists, at the building in which the meeting is to be held." Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2022)) provides, in relevant part: "An agenda for each regular meeting shall be posted at the principal office of the public body and at the location where the meeting is to be held at least 48 hours in advance of the holding of the meeting."

<sup>6</sup>E-mail from Tad A. Mayhill, Chairman, Shelby County Board to Edie Steinberg, [Senior Assistant Attorney General, Public Access Bureau] (April 4, 2025).

Office, EMA, Public Buildings, Ambulance, and Public Health."<sup>7</sup> Mr. Mayhill informed this office that during the gathering at the Morgan Street building:

In addition to the EMA director and dive commander, I recall discussing with Mr. Morse and Mr. Ross, along with Mr. Pritchard about the size of the larger and smaller bay and meeting the needs of dive and rescue, and there was a discussion about insulation in the bays, along with heat. In addition, the potential need to extend the upper-level decking to add space, as well as a wall to create a lower-level training/meeting room.

The viewing of the building wasn't specific to the committee, but it was brought to my attention that it was for sale and could be a place to house some of our emergency response agencies and EMA. In addition, there was a lot of space for record storage and a place to store election equipment. The site could have reduced the number of locations our agencies are housed and allow us to stop paying rent on multiple storage locations for records and equipment. The purpose would be relevant [to] public safety entities, but it also had potential for other uses for the county.

Per your initial request, I mentioned, no actions were deliberated or acted on. The intent was to look at a facility with the potential stakeholders that was brough[t] to our attention. There was never an attempt to avert OMA rules, but if we did, I take responsibility for it. We were under some time pressure, and there was limited discussion that night since the purpose was to view the building, but we did have discussions, nonetheless.<sup>[8]</sup>

Based upon the information provided, three Committee members, comprising a majority of a quorum of the Committee, were present at the Morgan Street building and discussed topics that are public business of the Committee. In particular, the suitability of the building for housing emergency response agencies and the County's Emergency Management Agency is Committee business given its role as a liaison between such agencies and the County Board. Accordingly, the gathering of Committee members at the Morgan Street building was a

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<sup>7</sup>Shelby County Board, Organizational Meeting, December 2, 2024, Minutes 2.

<sup>8</sup>E-mail from Tad A. Mayhill, Chairman, Shelby County Board to Edie Steinberg, [Senior Assistant Attorney General, Public Access Bureau] (April 4, 2025).

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meeting subject to the requirements of OMA. Therefore, this office concludes that the Committee violated OMA by holding a meeting without providing advance notice, an agenda, or otherwise complying with the requirements of the Act. Because the Committee did not vote upon items of final action at the meeting, no further remedial action is required, but this office reminds the Committee to fully comply with the requirements of OMA when gathering to discuss matters of public business in the future.<sup>9</sup>

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](mailto:edie.steinberg@ilag.gov).

Very truly yours,



EDIE STEINBERG  
Senior Assistant Attorney General  
Public Access Bureau

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<sup>9</sup>This office notes if Committee members must conduct property inspections before meetings, they may wish to consider doing so individually to avoid the potential of a majority of a quorum discussing public business during the inspection of the property.