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STATE OF MARYLAND
OPEN MEETINGS COMPLIANCE
BOARD

20 Official Opinions of the Compliance Board 1 (2026)

January 5, 2026

Upper Marlboro Town Council

The Complainant alleges that the Upper Marlboro Town Council (the “Town Council” or “Council”) may have violated the Open Meetings Act (the “Act”) when three members of the Council (a quorum) campaigned together for reelection. For the reasons below, we find no violation of the Act.

Background

On November 4, 2025, the Town had an election to fill each of the five seats on the Town Council. On at least two occasions before the election, three incumbents seeking reelection gathered for what they describe as campaign-related events.

At one gathering, the three members of the Town Council recorded campaign videos. According to the Town Council’s response to this complaint, the three members “met . . . at a local business to create a series of brief videos” in which each of the three members said why they should be reelected to the body. The Town Council asserts,

The only thing discussed on that date was the making of the video, including whether each candidate was satisfied with their video or whether they wanted to re-record it. As soon as the task was completed, everyone left to return to work.

One of the members edited the footage into three separate videos, which were posted on social media. The Town Council asserts that “[n]one of the videos were posted on the Town website or promoted by the Town in any way.”

In one video, each of the three members answered the question, “What would you do in your next term?” One member said that she wanted to see downtown development continue, “take the next step” on a bike and pedestrian feasibility study, and work with

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Prince George's County to revitalize an old school property. Another member said that he wanted to "gain more property" so that the Town could "have more of a say so" in what types of businesses operate in Town, and gain more of a connection with the community around the Town. The third member said that he wanted to grow the Town's business sector, pursue annexation, and "activate" the Town's open spaces. Each of the members of the Town Council appeared separately in the video.

In the second video, the three Council members answered the question, "What is your vision for Upper Marlboro?" One member said that she envisioned "a vibrant downtown." The second member said that he also envisioned a "thriving downtown." The third member said that he wanted the Town to be a place where people came to eat at restaurants, get their hair done, and "gather, and have a good time, and socialize." Again, each of the three members of the Town Council appeared separately in the video. A written introduction to the video included the following:

Do you like seeing new businesses and activity downtown? We need your vote on November 4, 2025, to keep moving the vision forward.

In the third video, each of the three Council members answered the question, "Why should we vote for you?" One member said that she had spent the past term creating a "shared vision" for the Town's future. The second member said that he had helped secure funding for economic development and had developed ties with elected officials in other jurisdictions. The third member said that he "loves this Town" and he wants a "say so in what goes on" in the Town. As with the other two videos, each of the three members of the Town Council appeared separately in the video.

On November 1, 2025, the same three members of the Town Council gathered again for what they describe as a "campaign event." An advertisement indicated that the three members would be outside a building at a particular intersection for three hours, during which residents could enjoy light refreshments and "join [the] candidates . . . to discuss Upper Marlboro's future." The ad stated that the three candidates "work hard to represent" Town residents and "talking with [them] [was] part of that work."

According to the Town Council's response to the complaint, this "was an opportunity for each candidate to individually discuss their vision for the Town and their achievements, to get to know residents, and to listen to residents' concerns in their capacities as candidates." The Council asserts that the three members of the body "discussed their families, food, the weather, as well as miscellaneous issues," but "not Town business." The Council further asserts that "[t]here was not a time at the event when all three of the candidates were in the same conversation, as each one was playing the role of host."

Discussion

The Complainant alleges that the gatherings of the three Town Council members may have violated the Act because, in her view, they involved the discussion of Town business. Her concern appears to be that these gatherings were “meetings” subject to the Act, for which the Town Council did not adhere to all of the Act’s requirements.

The Town Council responds that neither the gathering to record campaign videos or the “meet the candidates” event on November 1 were “meetings” of the Council subject to the Act.

Based on the limited record before us, we agree with the Town Council and find no violation of the Act.

“As its name suggests, the Open Meetings Act applies only when a public body ‘meets’ to perform certain functions.” 18 *OMCB Opinions* 12, 24 (2024) (some internal quotation marks omitted); *see also* § 3-103(a)¹ (providing that the Act does not apply to a public body when it is carrying out administrative, judicial, or quasi-judicial functions); § 3-101(b) (defining “administrative function”); § 3-101(e) (defining “judicial function”); § 3-101(j) (defining “quasi-judicial function”). Under the Act, “[m]eet’ means to convene a quorum of a public body to consider or transact public business.” § 3-101(g). “Quorum,” in turn, “means: (1) a majority of the members of a public body; or (2) the number of members that the law requires.” § 3-101(k).

Here, there is no dispute that a quorum of the Town Council attended the two events at issue. The only question is whether the quorum convened at these gatherings to consider or transact the Town Council’s public business, making these events “meetings” of the Town Council.

As we have previously explained, “[t]he Act does not apply to a ‘chance encounter, social gathering, or other occasion that is not intended to circumvent’ the Act. 9 *OMCB Opinions* 94, 96 (2013) (quoting what is now § 3-103(a)(2)). Political gatherings, “even if a quorum of a public body is present, are generally to be classified as social gatherings or other occasions that are not intended to circumvent the Act.” 3 *OMCB Opinions* 310, 312 (2003). We think gathering to record campaign videos, or to campaign in person with constituents, is political in nature and, thus, not generally subject to the Act.

“Of course, what starts out as a gathering not subject to the Act might become a ‘meeting’ under the Act, if a quorum of members of a public body use the occasion to ‘convene ... for the consideration or transaction of public business.’” 3 *OMCB*

¹ Statutory references are to the General Provisions Article of the Maryland Annotated Code.

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Opinions at 312 (quoting an earlier version of § 3-101(g)). “[T]he key point,” we have said, “will often be” if “an item related to public business comes up for discussion” and, if so, what actions, if any, the public body’s members take. *Id.* If the members of the body “participate actively” in “a give-and-take discussion about a matter related to public business,” then the gathering is likely a “meeting” of the public body subject to the Act. *Id.*

“The Act does not define ‘public business,’ but we have applied the meaning that the General Assembly has used elsewhere in the Maryland Code: ‘all matters within the jurisdiction of a public agency which are before an agency for official action or which reasonably, foreseeably may come before that agency in the future.’” 15 *OMCB Opinions* 79, 82 (2021) (quoting 2 *OMCB Opinions* 5, 7 (1998) (in turn quoting a provision of the St. Mary’s County Open Meetings Act, previously found at Article 24, § 4-202(d) of the Maryland Code²). In other words, “[p]ublic business encompasses those matters over which the public governmental body has supervision, control, jurisdiction or advisory power.” *Kansas City Star Co. v. Fulson*, 859 S.W.2d 934, 940 (Mo. Ct. App. 1993), *quoted in* 3 *OMCB Opinions* 274, 276 (2003), *and cited in* 2 *OMCB Opinions* at 7. *See also* 5 *OMCB Opinions* 60, 64 (2006) (finding that a public body is “involved in the consideration of public business when a quorum of the body meets to carry out its charge”); 3 *OMCB Opinions* 274, 275 (2003) (observing that “the General Assembly’s statement of legislative policy that introduces the Act suggests that ‘the consideration or transaction of public business’ is synonymous with ‘the performance of public officials’ in relation to ‘the deliberations and decisions that the making of public policy involves’”).

Applying that understanding here, we cannot conclude that the three members of the Town Council were considering or transacting the body’s public business when they gathered to record campaign videos and to campaign in person for reelection. For one thing, the record before us does not indicate that any of the three members of the Town Council commented on a specific matter that was currently pending or likely to come before the body for action. To be sure, the members remarked on broad issues of public interest like the development of downtown and annexation. But none referred to a specific proposal or pending legislation, something that distinguishes this situation from those in which we have previously found that a quorum was “meeting.” *See, e.g.,* 17 *OMCB Opinions* 109, 110 (2023) (concluding that a forum organized by a private entity was a “meeting” of a county council when a quorum of the council attended, answered questions,

² That provision, amended and recodified without substantive change, now appears in § 9-504 of the Local Government Article, which provides generally that “a public agency meeting at which official action is taken shall be open to the public.” According to a revisor’s note, “the former reference to ‘public business’ [was] deleted as implicit in the reference to a ‘public agency meeting.’” 2013 Md. Laws 923. *See also* Md. Code Ann., Local Gov’t § 9-501(d) (defining “public agency meeting” to mean “the convening of a quorum of the constituent membership of a public agency to deliberate or act on a matter under the supervision, control, jurisdiction, or advisory power of the public agency”).

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and made comments on several issues, including a matter then pending before the Council); 9 *OMCB Opinions* 40, 42-43 (2013) (concluding that three members of a five-member public body convened a “meeting” of the public body when they appeared on a radio program and discussed a matter that the public body would be acting on ten days later). “[A]lthough the subject matter involved” here “was of significant importance to the public,” “the nature of the” gatherings “does not appear to be directly related to establishment of a” Town Council “policy that would be expected to come before the [Town Council] at some future date.” 1 *OMCB Opinions* 150, 154 (2001) (concluding that a county school board was not “meeting” when a quorum of the body attended an event, organized by the county superintendent, that was not “directly related to establishment of a school system policy that would be expected to come before the [c]ounty [b]oard at some future date”).

Moreover, the three members’ participation in the events here “appears to have been as individuals, rather than as a decision-making body itself engaged in the conduct of public business.” 1 *OMCB Opinions* 104, 105 (1994) (concluding that a quorum of a city council was not “meeting” when it attended a discussion hosted by the city manager and police chief about crime-fighting strategies); *see also Ajamian v. Montgomery County*, 99 Md. App. 665, 676-77 (1994) (holding that members of the Montgomery County Council did not “meet” when they attended a gathering of the local Democratic Central Committee, because they did not deliberate public business; although the council president responded to a request for a briefing on various councilmanic redistricting plans, “[t]here [was] no evidence that any County Council members spoke to any other County Council member”). The campaign videos do not reflect discussions among the three members of the Town Council but, rather, individual statements by each candidate. Off camera, the Council asserts, the only discussions were about the logistics of recording the videos. As for the in-person public event on November 1, the Council asserts that the three members of the body never engaged in the same conversation.

To be sure, there is some indication that the three Council members communicated with one another about their shared views on certain topics. The written introduction to one of the videos, for example, indicated that the three members share a vision of bringing “new business and activity downtown.” But because the facts before us do not establish that, at the two gatherings at issue, the members engaged in “a give-and-take discussion,” 3 *OMCB Opinions* at 312, about a specific proposal pending or likely to come before the body, *see, e.g., 17 OMCB Opinions* at 110, 9 *OMCB Opinions* at 42-43, we cannot conclude that the three Council members convened “meetings” subject to the Act.

Conclusion

We conclude that the events in question here were not “meetings” subject to the Act. We thus find no violations.

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