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December 2, 2015

ESTABLISHED 1911

D. LOGAN GIFFIN  
(1890-1980)

MONTGOMERY S. WINNING  
(1892-1966)

C. TERRY LINDNER  
(1903-1987)

ALFRED F. NEWKIRK  
(1904-1980)

JAMES M. WINNING  
(1921-2013)

Mr. Michael McCreery  
United Counties Council of Illinois  
217 East Adams Street, Suite 101  
Springfield, IL 62701

**Re: Does the Open Meetings Act set forth the Procedure for Appointing  
A Chairman and Vice Chairman for Counties Not Under Township  
Organization (Commission Form of Government)**

Dear Mike:

**Question:**

Does the Open Meetings Act set forth the Procedure for Appointing a chairman and vice chairman for counties not under township organization (commission form of government)?

**Analysis:**

Section 5/2-4003 of the Counties Code<sup>1</sup> provides as follows:

“At the session of said commissioners in December of each year, they shall elect one of their number chairman for the ensuing year, who shall preside at their sessions and perform such duties as are or may be prescribed by law or by the order of said board.”

The Counties Code further provides in Section 5/2-4004<sup>2</sup> provides as follows:

“A majority of the members of said board shall constitute a quorum to do business, and, in the absence of the chairman, a chairman pro tem may be

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<sup>1</sup> 55 ILCS 5/2-4003.

<sup>2</sup> 55 ILCS 5/2-4004.

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United Counties Council of Illinois  
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appointed. The board shall sit with open doors, and all persons may attend their meetings. The vote on all propositions to appropriate money from the county treasury shall be taken by "ayes" and "nays" and entered on the record of the meeting."

### Conclusion

The Open Meetings Act<sup>3</sup> does not control the election or appointment of a chairman. The Counties Code requires a majority of the members of the county board to constitute a quorum for the transaction of business, which would be applicable for the election of the chairman. In the absence of the chairman, the majority of the members of the board shall appoint a chairman pro tem. In our opinion, the position of "vice chairman" meets the "pro tem" language of the Counties Code.

Sincerely,

GIFFIN, WINNING, COHEN & BODEWES, P.C.

  
Herman G. Bodewes

HGB:pa

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**Disclaimer:** This opinion was prepared by Giffin, Winning, Cohen & Bodewes, P.C. at the request of UCCI and is to be used solely by UCCI and its members. The State's Attorney is the attorney for the County. Legal advice, if requested, should be sought from the State's Attorney.

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<sup>3</sup> 5 ILCS 120/1.