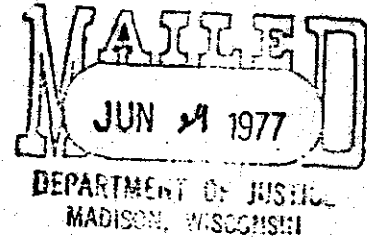


June 29, 1977



Mr. Robert J. Heule  
School District Clerk  
3200 West Barnard Avenue  
Greenfield, Wisconsin 53221

Dear Mr. Heule:

Pursuant to sec. 19.98, Stats., you request my advice as to procedures to follow to comply with the open meeting law.

You state that the school district gave notice of a regular meeting to convene at 7:00 p.m. with notice of closed meeting to convene at 8:30 p.m. The board completed its open session agenda at 7:48 p.m. and the president made announcement that the closed session for the stated purpose would immediately convene. Objection was made and the board waited until 8:30 p.m. to go into closed session.

- "1. If a governmental body schedules a closed session to convene upon the conclusion of business of an open session, and publishes the time for the convening of the closed session on the agenda or as part of the public notice of the open session, does sec. 19.84(2) Stats. prohibit the governmental body from convening the closed session at a time prior to the time published?"

The answer is "no," providing that the presiding officer makes the announcement required by sec. 19.85(1), Stats. No real purpose would be served by waiting until the scheduled time to convene in closed session, except in case where the notice of meeting stated that the board would reconvene in open session after the scheduled closed session. If such notice were included the board could not reconvene in open session until a reasonable time after the scheduled time for the closed session.

- "2. May a governmental body convene in closed session immediately upon the conclusion of the business of an open session, without

including the time that the closed session is scheduled to convene on the agenda or as part of the public notice of the open session, if it is made known in the notice of the open session that such closed session will take place, without violating sec. 19.84 (2), as long as sec. 19.85(1) is complied with?"

The answer is "yes."

Section 19.84(2), Stats., provides:

"(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof."

The body can publicly notice that a closed session will immediately follow the open session. A closed session cannot be the first order of business on a given date. Even where the closed session is to conduct the primary business on a given date, the body should convene in open session, complete any open session business, take a vote to go into closed session and the presiding officer should make announcement to those present of the purpose of the closed session and the specific exemption of sec. 19.85(1), Stats., under which it is claimed to be authorized. The board cannot reconvene in open session within 12 hours after closed session "unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session." Sec. 19.85(2), Stats.

"3. Under 19.85(1), is the verbal quotation of the statutory language or relevant parts thereof, and the statute number of a 'specific exemption' sufficient for compliance with the 'nature of the business' clause in the chief presiding officer's required announcement to 'those present at the meeting at which the motion is made', before a motion to convene in closed session is adopted?"

The answer is "no." Section 19.85(1), Stats., requires announcement of "the nature of the business to be considered

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at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized." Just as reasons justifying a closed session will vary depending upon the circumstances, the announcement of the "nature of the business to be considered" will vary. The announcement should be tailored to the special circumstances. Whether the name of the specific person or persons should be included is usually within the discretion of the governmental body. In certain cases reference could be made to the position or class of persons involved, i.e., secretary, administrator, teacher, student, etc. Recitation of the statutory language is appropriate to aid in identifying the specific exemption, however, most of the exemptions deal with a number of subjects and the body would not in most cases be concerned with all subjects within the exemption. A degree of specificity is necessary so that the members of the body can intelligently vote on the motion to go into closed session and to inform the members of the public and news media present of the claimed reason for closure. The stated policy of the law is that "the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business."

I suggest that you discuss your specific concerns with the attorney for the school board.

Sincerely yours,

Bronson C. La Follette  
Attorney General

BCI:ked

bcc: Donna Miller

(Vergerson)