



The State of Wisconsin
Department of Justice

123 West Washington Avenue
Mailing Address: P.O. Box 7857
Madison, Wisconsin 53707-7857

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Bronson C. La Follette
Attorney General

Ed Garvey
Deputy Attorney General

Mr. Kirk Gaylord
Managing Editor
The Polk County Ledger
Balsam Lake, Wisconsin 54810

Dear Mr. Gaylord:

You inquire whether a three-person county board of adjustment's practice of gathering together without prior notice to the public and news media, riding together in an automobile for the purpose of on site inspection of parcels of property on which variances have been requested, and taking measurements on such parcels, is in apparent conflict with the provisions of the open meetings law.

I am of the opinion that it is.

A county board of adjustment is authorized by statute and section 59.99(3), Stats., provides that its meetings shall be open to the public. It is a governmental body within the meaning of section 19.82(1). The only question is whether the morning "tour for information gathering" constitutes a meeting within section 19.82(2) which provides:

"Meeting" means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter.

In my opinion it does. The purpose of the inspection is to carry out the responsibilities, authority, power and duties vested in the body. More than half the members of the body are present on call of the chairperson or board (sec. 59.99(3), Stats.) and

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the gathering is not a "social or chance gathering or conference which is not intended to avoid" the open meetings law. In State v. Swanson, 92 Wis. 2d 310, 284 N.W.2d 655 (1979), the court held that where members of a committee of a city council met with residents of a neighboring town to discuss annexation and sewer service to the town, such gathering constituted a meeting required to be noticed even though the committee did not have final authority to act in the matter.

I am enclosing a copy of a letter to the county executive of Fond du Lac County, dated March 5, 1982, which discusses precautions which should be taken where members of a governmental body share the same car or bus. Attached thereto are letters which discuss the necessity to notice as meetings, gatherings of more than one half of the members of a governmental body for site inspection.

Sincerely yours,



Bronson C. La Follette
Attorney General

BCL:dc

Enclosures