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The State of Wisconsin  
Department of Justice

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February 26, 1987

Donald J. Hanaway  
Attorney General

Mr. Thomas H. Geyer  
Grant County Economic  
Development Corporation  
Post Office Box 253  
Platteville, Wisconsin 53818

Dear Mr. Geyer:

You have asked for my opinion whether the Grant County Economic Development Corporation (GCEDC) is subject to the open meetings and public records laws.

You state that the GCEDC is a chapter 181, Stats., non-stock, non-profit corporation that receives more than fifty percent of its funding from Grant County and the municipalities therein.

The open meetings law is applicable to all state and local governmental bodies. Sec. 19.81(2), Stats. The meaning of the term "governmental body" under the open meetings law is defined in section 19.82(1):

"Governmental body" means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation created under ch. 232; any public purpose corporation, as defined in s. 181.79(1); or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. IV or V of ch. 111.

I have seen no evidence that the GCEDC was created by constitution, statute, ordinance, rule or order. From the articles of incorporation you sent, it appears the GCEDC was formed by private citizens. The articles state that the corporation's by-laws will specify how members, directors and officers are selected. It is significant that the corporation, rather than a governmental body, will determine how those selections are made.

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The GCEDC is not a governmental or quasi-governmental corporation. My predecessor concluded that the term quasi-governmental corporation was limited "to nonstock body politic corporations created by the Legislature to perform essentially governmental functions." 74 Op. Att'y Gen. 38, 43 (1985). Quasi-governmental corporations "have delegated powers largely controlled by statute." 74 Op. Att'y Gen. at 42.

The GCEDC is similar to the corporations found not subject to the open meetings law in 74 Op. Att'y Gen. 38 and 73 Op. Att'y Gen. 53 (1984). It does not appear that the GCEDC exercises any sovereign power or that its activity is dependent on or controlled by delegation from the Legislature or any other governmental body. The powers of the GCEDC are derived from the general laws of the state. It appears to be a private corporation. 74 Op. Att'y Gen. at 41-43; and 73 Op. Att'y Gen. at 56. Even though the GCEDC may serve a public purpose in promoting the industrial and economic development of the county, it is not a governmental or quasi-governmental corporation under section 19.82(1) because it is not "created directly by the Legislature or by some governmental body pursuant to specific statutory authorization or direction." See 66 Op. Att'y Gen. 113, 115 (1977).

The GCEDC is not a public purpose corporation as defined in section 181.79(1) because it was not organized to provide for a guaranteed student loan program.

I have also seen no evidence that the GCEDC is a subunit of any other governmental body.

Whether the GCEDC is subject to the public records law depends upon whether it is an "authority" as that term is defined in section 19.32(1):

"Authority" means any of the following having custody of a record: a state or local office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation created under ch. 232; any public purpose corporation, as defined in s. 181.79(1); any court of law; the assembly or senate; a nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in s. 59.001(3), and which provides services related to

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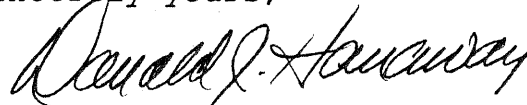
public health or safety to the county or municipality;  
or a formally constituted subunit of any of the  
foregoing.

The definition of authority is similar to the definition of governmental body in the open meetings law. As a result, because the GCEDC is not a governmental body, it also does not qualify as an "authority" under the first phrases of section 19.32(1).

Because the GCEDC receives more than fifty percent of its funding from the county and municipalities, it is necessary to consider the phrase defining authority as "a nonprofit corporation which receives more than 50% of its funds from a county or a municipality as defined in s. 59.001(3), and which provides services related to public health and safety to the county or municipality." See sec. 19.32(1), Stats. Because there is no evidence that the GCEDC provides services related to health or safety to the county or municipalities that provide the funds, the GCEDC does not qualify as an "authority" under this portion of the statute.

For the reasons that have been discussed, it is my opinion that the GCEDC is not subject to the open meetings and the public records laws. It should be remembered that independent private associations or non-profit corporations are not subject to the open meetings and public records laws just because they have a public purpose. 74 Op. Att'y Gen. at 41.

Sincerely yours,



Donald J. Hanaway  
Attorney General

DJH:dah