



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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July 13, 2006

Mr. Darwin L. Zwieg
District Attorney
Clark County
517 Court Street
Neillsville, WI 54456

Dear Mr. Zwieg:

I am writing in response to your letter of May 24, 2006, in which you requested a second opinion regarding an open meetings law complaint filed with your office by Michael Langiewicz. I apologize for the delay in responding and thank you for your patience.

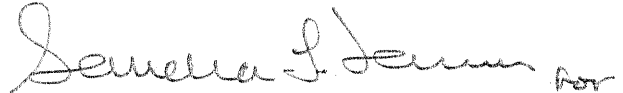
According to your letter and attachments, Mr. Langiewicz believes that a town board violated the open meetings law when it excluded him from making comments during a duly noticed public comment period and instead proceeded to other business without formally closing that period. In a letter to Mr. Langiewicz dated May 15, 2006, you declined to commence an enforcement action on the ground that whether to allow public comment is discretionary under the open meetings law and thus cannot form the basis for a violation. Because Mr. Langiewicz disagreed with your conclusion, you have requested a second opinion from the Department of Justice.

As you have correctly noted, the open meetings statutes allow, but do not require, a governmental body to designate a portion of an open meeting as a public comment period. Wis. Stat. §§ 19.83(2) and 19.84(2). The statutes are silent, however, regarding any specific procedures to be followed if such a public comment period is allowed. In particular, there is nothing in the open meetings statutes that requires a governmental body to formally close a comment period before moving on to other business. Faced with such statutory silence, Wisconsin law generally gives local governing bodies broad discretion to govern their own procedures. It follows that a town board has the power to determine for itself the specific procedures it will follow in holding a public comment period, including the timing and length of that period. I therefore agree with your conclusion that Mr. Langiewicz's complaint failed to allege a violation of the open meetings law.

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Your letter also indicates that Mr. Langiewicz alternatively alleges that the town board discriminated against him when it excluded him from participating in the public comment period. I agree with you that non-specific allegations of discrimination, without more, do not constitute a crime that could be prosecuted by a district attorney. If Mr. Langiewicz believes that the discrimination he alleges violated his constitutional rights, then he may wish to consult with a private attorney regarding any potential civil remedies.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas C. Bellavia", followed by a small mark that looks like "for".

Thomas C. Bellavia
Assistant Attorney General

TCB:cla