



## WISCONSIN LEGISLATIVE COUNCIL

### APPLICABILITY OF OPEN MEETINGS LAW TO QUASI-GOVERNMENTAL BODIES

Room 411 South, State Capitol  
Madison, Wisconsin

October 18, 2006  
10:00 a.m. – 12:00 p.m.

[The following is a summary of the October 18, 2006 meeting of the Special Committee on Applicability of Open Meetings Law to Quasi-Governmental Bodies. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

#### Call to Order and Roll Call

Chair Fitzgerald called the meeting to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Scott Fitzgerald, Chair; Reps. Jeff Fitzgerald, Thomas Lothian, and Mark Pocan; and Public Members Duane Foulkes, Peter Fox, Joseph Hasler, Jeff Kitchen, John Laabs, Andy Lewis, James Otterstein, Melanie Swank, Ray Taffora, and Ellen Totzke.

COUNCIL STAFF PRESENT: Ronald Sklansky, Senior Staff Attorney; Dan Schmidt, Senior Analyst; and Jessica Karls, Staff Attorney.

APPEARANCE: Terry C. Anderson, Director, Legislative Council.

#### Opening Remarks

Chair Fitzgerald introduced himself and shared his perspective on the issues before the Special Committee. **Terry C. Anderson**, Director of the Legislative Council, welcomed the members to the first meeting of the Special Committee on behalf of Senator Alan Lasee and Representative Steve Wieckert, Co-Chairs of the Joint Legislative Council. Mr. Anderson thanked the members for serving on the committee, stressed the importance of citizen involvement in the legislative process, reviewed some procedural and administrative matters, and introduced Jessica Karls, Staff Attorney, the newest addition to the Legislative Council staff.

## **Introduction of Committee Members**

At the invitation of Chair Fitzgerald, the committee members briefly introduced themselves and described their interests in the issues to be addressed by the committee.

## **Description of Material Distributed**

Ron Sklansky described Memo No. 1, *Overview of Wisconsin's Open Meetings Law and its Application to Quasi-Governmental Bodies*, and other materials distributed to committee members.

## **Discussion of Committee Assignment**

Chair Fitzgerald described a number of entities which may be affected by changes to the types of entities covered by the Open Meetings Law and indicated that he would like to limit the scope of the committee's action to economic development corporations.

Mr. Hasler asked for a description of the Beaver Dam case that appeared to be the impetus for the study.

Chair Fitzgerald, Jeff Kitchen, and Duane Foulkes briefly described the Beaver Dam Area Development Corporation litigation.

Mr. Sklansky briefly described the findings of facts made by the circuit court in the Beaver Dam case.

Mr. Taffora suggested that the committee consider eliminating the term "quasi-governmental corporation" and concentrate on redefining the term "government corporation."

Mr. Lewis described the Grant County economic development corporation. He recommended that the committee consider an exemption for business meetings of quasi-governmental corporations.

Mr. Fox made some general observations regarding the Beaver Dam case and indicated that similar issues have arisen in many other localities within the state. He briefly discussed his interpretation of the Open Meetings Law as it applies to these circumstances.

Mr. Otterstein discussed the nature of economic development and the public perceptions of the economic development process. He offered to get some background information on economic development corporations for the committee.

Representative Pocan requested that the committee hear from the Attorney General's office and consider looking at the Minnesota model for economic development corporation law.

Ms. Swank indicated that she has advised governmental bodies to use the exception in s. 19.85 (1) (e), Stats., and would consider advising the use of s. 19.85 (1) (i), Stats., as well, if necessary, when closing meetings of economic development corporations.

Mr. Sklansky asked if any of these closures have ever been challenged in court. Ms. Swank indicated that issues have arisen, but that a case has not yet been litigated.

Mr. Kitchen described the Beaver Dam experience with confidentiality requirements and described the corporations with whom the city works.

Mr. Lewis raised the issue of public funds used by the economic development corporations and questioned when such corporations become private.

Mr. Otterstein mentioned that maintaining confidentiality with private corporations is crucial to the economic development process and promoted the need for clarity in the Open Meetings Law definitions and applications.

Mr. Sklansky asked Mr. Otterstein if maintaining confidentiality quickens the pace of municipal decisions regarding economic development.

Mr. Otterstein explained that timing is important, but that the confidentiality really protects other parts of the economic development process.

Mr. Lewis indicated that there generally is a time in the process when confidentiality is abandoned and the information is made public.

Mr. Fox discussed his interpretation of the role and functioning of the economic development corporation.

Mr. Sklansky encouraged members to send suggestions to the Legislative Council staff regarding drafting options for the committee.

### **Plans for Future Meetings**

The next meeting of the Special Committee will be held at the call of the Chair.

### **Adjournment**

The meeting was adjourned at 12:00 p.m.

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