



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

April 7, 1976

ATTORNEY GENERAL OPINION NO. 76- 122

Mr. David K. Clark
Wilson County Attorney
609 Monroe
Fredonia, Kansas 66736

Re: Open Meeting Law--County Planning Boards

Synopsis: Meetings and votes of county planning boards are subject to the Kansas open meeting law, K.S.A. 1975 Supp. 75-4317 *et seq.*

* * *

Dear Mr. Clark:

You inquire whether the votes taken by the Wilson County Planning Board are subject to the requirements of the Kansas open meeting law, K.S.A. 1975 Supp. 75-4317 *et seq.*

County planning boards are authorized by K.S.A. 19-2915. The role of the board in zoning changes is set out at K.S.A. 19-2920. As you point out, the role of the planning board is to some extent advisory, for its action is taken ordinarily in the form of recommendations to the board of county commissioners. However, the planning board is by statute given a major official role in the adoption and amendment of zoning regulations:

"Before any county shall create any zoning district or regulate or restrict the use of buildings or land therein, the board of county commissioners shall require the planning board to recommend to the county

Mr. David K. Clark
Page Two
April 7, 1976

commissioners the boundaries of districts and appropriate regulations to be enforced thereon. . . . The planning board shall make and develop tentative recommendations and shall hold one or more public hearings thereon as the board of county commissioners shall determine. . . . [A] notice of each public hearing [shall] . . . be published once each week for two (2) consecutive weeks in the official county newspaper Such hearings may be adjourned from time to time and upon the conclusion of the same, the planning board shall prepare and adopt its recommendations in the form of a proposed zoning resolution and shall submit the same . . . to the board of county commissioners.

* * *

Upon the receipt of the recommendations of the planning board, the board of county commissioners may adopt the same with or without change or refer it back to the planning board for further consideration, and after adoption of regulations by the board of county commissioners, they may from time to time thereafter amend, supplement or change the boundaries or regulations contained in such zoning resolution. . . . All proposed changes shall first be submitted to the planning board for recommendation and report, and no amendment or change shall be made without a hearing before the planning board, public notice of which shall be given and the procedure for the consideration and adoption of which shall be in like manner as that required for the consideration and adoption of the original zoning resolution."

Thus, by statute, action by the planning board regarding any proposed zoning regulation or amendment thereto is a statutory prerequisite to action by the board of county commissioners.

K.S.A. 1975 Supp. 75-4318(a) provides in pertinent part thus:

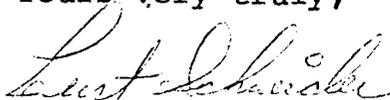
"Except as otherwise provided by law, all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the

Mr. David K. Clark
Page Three
April 7, 1976

state and political and taxing subdivisions thereof, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such body shall be by secret ballot."

The county planning board is an administrative body of the county. It is supported by public funds. K.S.A. 19-2916. Decisions of the planning board are clearly crucial steps in the adoption and amendment of zoning regulations. A vote by members of the planning board is certainly a "binding action" of the board. In short, it is my opinion that the county planning board is an administrative body of the county, which is subject to the provisions of the open meeting law in its entirety. Any vote of the planning board must be taken in public session, and may not be taken by secret ballot. If a vote is taken by written ballot, for example, the ballots must be identified the members of the board casting them, in order that the votes of the members of the board may be open to public inspection.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj