



STATE OF KANSAS

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September 19, 1980

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ATTORNEY GENERAL OPINION NO. 80-197

Ms. Mary Jane Purvis
Councilwoman
City of Louisburg
Box 87
Louisburg, Kansas 66053

Re: State Departments; Public Officers, Employees--
Open Meetings Act--Application of Act to Work
Sessions; Minutes

Synopsis: The Kansas Open Meetings Act applies to work sessions of the Louisburg City Council where the topics of discussion include the business or affairs of the city council. The Act does not require minutes to be kept unless an executive session is held in which case the information specified in K.S.A. 1979 Supp. 75-4319(a) must be included in the minutes of the body. Cited herein: K.S.A. 75-4317, 45-4317a, K.S.A. 1979 Supp. 75-4318 and K.S.A. 75-4319.

* * *

Dear Ms. Purvis:

You request the opinion of this office concerning the application of the Kansas Open Meetings Act, K.S.A. 75-4317 et seq., to "work sessions" of the Louisburg City Council. The work sessions are described as informal gatherings where the council members "thrash out" differences of opinion regarding matters to be acted upon at a subsequent regular meeting. You further advise that no action is taken at such work sessions.

The Kansas Open Meetings Act provides in pertinent part:

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"Except as otherwise provided by state or federal law or by rules of the house or senate, and except with respect to any impeachment inquiry or other impeachment matter referred to any committee of the house of representatives prior to the report of such committee to the full house of representatives, all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the 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 bodies shall be by secret ballot, but any administrative body that is authorized by law to exercise quasi-judicial functions shall not be required to have open meetings when such body is deliberating matters relating to a decision involving such quasi-judicial functions." K.S.A. 1979 Supp. 75-4318a.

Based on the situation you pose, we have no hesitation in advising that such gatherings, if attended by a majority of a quorum of the council, are subject to the requirements of the Kansas Open Meetings Act. The City Council is clearly a body subject to the Act and if the gathering is for the "purpose of discussing the business or affairs of the body or agency," then the gathering is a meeting within the meaning of that term as defined in K.S.A. 75-4317a.

The discussion of matters pending before the Council are clearly the business or affairs of the body within the meaning of above-quoted statutes. That no binding or formal action is taken at such meetings is of no consequence with regard to the application of the Act to such meetings. In Coggins v. Public Employee Relations Board, 2 Kan.App.2d 416 (1978), the Kansas Supreme Court said: "[T]he term [meetings] includes all gatherings at all stages of the decision-making process." Id. at 423.

The all encompassing language selected by the Court virutally lays to rest any notion that "work sessions," "study sessions," conferences or other informal gatherings where no action is taken are not covered by the Act. The entire deliberative process leading up to the ultimate decision is subject to the Act and the taking of formal action should not be viewed as the sine qua non of whether a gathering constitutes a "meeting" under the Act.

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You also inquire if minutes must be kept of such work sessions. The Kansas Open Meetings Act generally does not require that minutes must be kept; however, in a given situation some other Kansas law or local ordinance may so require. In addition, if during an otherwise public meeting (work session) the City Council desires to recess into executive session the open meetings law requires that the decision to do so be made by formal motion and the reasons therefor are to be recorded in the permanent public minutes of the body. Specifically, K.S.A. 75-4319(a) provides:

"Upon formal motion made, seconded and carried, all bodies and agencies subject to this act may recess but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion."

The clear mandate of this section is that minutes of the meeting must be kept when a recess into closed or executive session is proposed, even though the gathering is otherwise informal. Of course, binding action may not be taken during such executive sessions [see K.S.A. 75-4319(c)] and the topics of discussion must be limited to those six subjects enumerated in K.S.A. 75-4319(b) and those identified in the formal motion to recess [see K.S.A. 75-4319(a), supra].

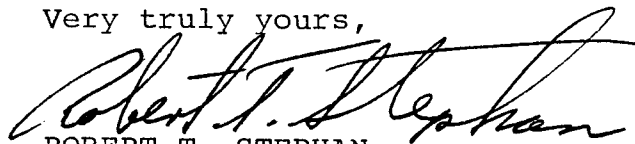
We would further counsel that the notice provisions of the Act require notice to be given for all regular and special meetings of the City Council. K.S.A. 1979 Supp. 75-4318(b). The "work sessions" you describe are clearly regular or special meetings of the city's governing body and the providing of notice of such meetings to any person requesting it is the responsibility of the chairman or other person calling the meeting. Id.

In summary, the Kansas Open Meetings Act applies to work sessions of the Louisburg City Council where the topics of discussion include the business or affairs of the city council. The Act does not require

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minutes to be kept unless an executive session is held in which case the information specified in K.S.A. 1979 Supp. 75-4319(a) must be included in the minutes of the body.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Bradley J. Smoot
Deputy Attorney General

RTS:BJs:phf