



# FOX POINT

*files* by Douglas H. Frazer

## THE WISCONSIN OPEN MEETINGS LAW

### Part 1

Wisconsin's open meetings law, enacted by the state legislature in 1975, requires all meetings of governmental bodies be open to the public. Found in Sections 19.81 through 19.98 of the Wisconsin Statutes, it begins with a statement of policy: Because a representative government is dependent on an informed electorate, the public is entitled to full and complete information concerning the affairs of government as is compatible with the conduct of government business.

This policy goal is particularly important on the local level—for it is here the public is affected by the affairs of government on a daily basis. Daily, the Village of Fox Point provides services and procedures on which we all rely. The services include public safety, a municipal court, roads and bridges, snow plowing, solid waste and recycling pickup, water, sewer, zoning, permitting, public health, and a library. The procedures include rules for petitions, appeals, and the opportunity to be heard.

Besides requiring that all meetings of governmental bodies be open to the public, the law creates a presumption that the public is entitled to receive full and complete information about meetings—including prior notice and a detailed agenda—any time a governing body engages in government business, unless a specific exception applies.

The law applies to all “governing bodies.” In the case of Fox Point, governing body means not only the Village Board, but also any board, commission, committee, or council that the Village Board creates.

The law applies to “meetings” of governing bodies. This term includes the kinds of activity you normally think of as meetings, but it can include a lot more. If one-half or more of the members of the governing body are present, the meeting is presumed to be “for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body.” The term does not include “any social or change gathering or conference provided it is not intended to avoid the law.”

Wisconsin courts consider the purpose of the gathering and the number of members of the body present. It is not always a majority of the members. In some situations, the number of members who may control the outcome of particular issues may be less than a quorum of the governing body. This is called a “negative quorum.” For example, on issues that are subject to a two-thirds vote, the gathering of three of seven members is subject to the open meetings law if the gathering is for the purpose of discussion, decision or information-gathering related to that issue.

The law may also be violated by a series of gatherings, each one of which includes less than a controlling number of members. For instance, if four of seven members can control the outcome of the matter, the law may be violated if Member A discusses the issue with Member B, then later discusses the issue with Members C and D. That series of discussions could constitute a “meeting” of four members even though not all four were present at the same time. The courts refer to this as a “walking quorum” and subject it to the same requirements that apply to other meetings of governing bodies to ensure that the purpose of the open meetings law is not violated.

Even telephone calls made for the purpose of engaging a government business can be a meeting if a controlling number of members participate in the call. It's the same for email communications—particularly in connection with features like forward and reply to all.

In Part 2 we will cover the public notice requirements of the law and learn how the law works in practice.

*Douglas H. Frazer is a Fox Point resident and neighborhood contributor as well as the village president. The views expressed are his own and not necessarily those of the Village, the village board, other village board members, or Best Version Media, LLC.*



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