

SUNSHINE ADVISORY

A Bulletin on Iowa Open Meetings and Public Records Laws

By Attorney General Tom Miller – January 2008

“All in Favor, Say Aye . . .”

Governmental bodies should conduct votes in a manner that ensures the public is informed and officials are accountable.

When governmental bodies meet, final action on any issue *always* must be taken in open session. But how accountable are the individual members of these bodies for the votes they cast? Can a citizen who attends a meeting identify which members voted, and how they voted? How does Iowa’s Open Meetings Law help provide accountability to the public for votes in open session?

Here are principles that should be followed by governmental bodies to assure accountability to the public for the vote of each member of a body on each issue:

- *Never use secret ballots.* The vote of each member must always be cast in public. This is true even when the vote constitutes the final action on a matter *considered* in closed session.
- *Always take a roll call vote to go into closed session.* Roll call votes are required (Iowa Code sec. 21.5(2)) to go into closed session and may be useful in other situations.
- *Be careful about using voice votes* – “all in favor say aye, all opposed say nay.” Iowa law says “the vote of each member present shall be made public at the open session,” in addition to being recorded in minutes. (Iowa Code sec. 21.3.) With voice votes it may be hard for observers to tell who voted, or how they voted. The Attorney General’s Office advises governmental bodies to avoid confusion. First, the chair should clarify who voted when the result is announced, or if some members remained silent. Second, *use a voice vote only if a vote is unanimous.* Unless a voice vote is unanimous, the public may not be able to determine who was speaking and how each member voted. If in doubt, take a roll call vote.

Remember: the public is entitled to know how each member of a governmental body votes at a public session. The minutes of a meeting will reflect the vote later -- but minutes are no substitute for providing accountability during the open meeting.

This Advisory was first issued in September 2003. Citizens who have inquiries or complaints about public records or open meetings may call the Iowa Citizens’ Aide/Ombudsman Office – toll-free at 888-IA-OMBUD (888-426-6283.)

“Sunshine Advisory” bulletins provide information on Iowa’s public records and open meetings laws – our “Sunshine Laws.” The bulletins are a resource for public officials and citizens. Local officials should obtain legal advice from their counsel, such as the city or county attorney.



Iowa Attorney General’s Office: Hoover Building, Des Moines, Iowa 50319.

On the Web: www.iowaAttorneyGeneral.org . (Click on “open government.”)