

N.D.A.G. Letter to Larson (Sep. 19, 1989)

September 19, 1989

Hon. Rod Larson
State Representative
District 13
36 Park Drive
West Fargo, ND 58078

Dear Representative Larson:

Thank you for your August 25, 1989, letter concerning meetings of the Cass County Historical Society. Enclosed with your letter were six questions addressing the meetings of publicly funded organizations.

The first question inquires whether the meeting of the board of directors of a publicly funded organization must be open to the public. N.D.C.C. § 44-04-19 provides that, unless otherwise provided by law, all meetings of "organizations or agencies supported in whole or in part by public funds, or expending public funds should be open to the public." If the organization in question satisfies this definition, then its meetings must be open to the public unless a statute specifically provides otherwise.

Your second question concerns the ability of a board of directors to have an executive session not in the presence of the public. Presumably, this question refers to a publicly funded organization whose meetings must be open as required by N.D.C.C. § 44-04-19. All meetings of those entities described by N.D.C.C. § 44-04-19 must be open to the public unless the Legislature "specifically" provides otherwise. Thus, the statutes discussing the entity involved would have to be reviewed to determine whether the Legislature has provided for closed meetings of that entity. If not, all of its meetings must be open to the public. A closed executive session is not permissible.

Questions 3, 4, 5, and 6 concern the procedures by which the open meeting is conducted. Your questions ask about audience participation, recognition by the chairman of the meeting, approval or disapproval of minutes, and the manner in which the agenda for that meeting is organized. North Dakota law does not address these subjects in the open records statute nor elsewhere. Instead, the Legislature has left to the entity involved to determine its own rules of procedure. For this reason, I cannot respond to your questions and must defer to the judgment of the entity involved in determining its own rules of procedures.

I hope this general discussion will be helpful to you and to the members of the Cass County Historical Society.

Sincerely,

Nicholas J. Spaeth

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