

## Stronger open meetings law

Open meetings are key to participation in the democratic process by Sierra Club members and other Iowans.

In March 2016, the Iowa Supreme Court ruled that three-member boards are not allowed to use a third-party to engage in debates and policy-making activities in order to skirt complying with the open meetings law.<sup>1</sup> Even so, the open meetings laws have several deficiencies.

**Clear rules for state and local governments and agencies need to be established regarding when to have public meetings on proposals.**

Public hearings, not open houses, would require proponents of projects to explain their proposals and answer questions in front of everyone attending the meeting.

**Stakeholder, subcommittee and advisory committees need to be open to the public.**

Likewise, stakeholder groups and task forces that are established to gather information and make recommendations about public policy issues need to be open to the public.



*Eagle. Photo by Nick Graceffa.*

Although many meetings of government bodies are open to the public, there are a number of subcommittees and advisory committees that are closed. The Iowa Chapter of the Sierra Club believes that subcommittee and advisory committee meetings must be open to the public requiring a change to the definition of “meeting” and “government body” in the Iowa Code. Often the real work and the real decisions of the public body occur in the subcommittees and the advisory committees. By the time the issue gets to the public meeting of the full body, the

---

<sup>1</sup> Iowa Supreme Court Case number 14-1649, Case Peg Hutchinson, et. al. vs. Douglas Shull, et. al., order filed March 18, 2016. This case has also been referred to as the Warren County Supervisors case. In this case, the supervisors conferred separately with an employee who served as an “agent” in keeping the other supervisors informed, by working out compromises on staff reductions and by keeping track of the votes of the supervisors. When the supervisors ultimately met in open session, the vote had been predetermined and the supervisors engaged in limited discussion about the planned staff reduction.

information has already been discussed and deliberated so that the full public body may be nothing more than a vehicle for automatic approval.

For example, the Department of Natural Resources convened a stakeholder group in 2014, as required by Executive Order 80, to determine if a rule to preserve topsoil on construction sites should be rescinded. The stakeholder group met several times in private, without allowing members of the public to observe the proceedings. Then the group asked for public comments, even though the public was not made aware of what was being discussed in private and, therefore, could not address those issues. These meetings should have been held in a public place with members of the public invited to observe.

In another situation, the Vision Iowa Board created negotiating committees, which were subcommittees of the Vision Iowa Board and not open to the public. Besides negotiating grant amounts, the negotiating committees made major decisions, including decisions to pull discussions off the agendas. Most of the deliberation and recommendations were done during these negotiation sessions. People who attended the full Board meetings sometimes left the meetings believing that significant items were being withheld from the public.

**Walking quorums need to be prohibited.** These meetings are also referred to as serial meetings or roaming quorums.

In order to avoid the state open meetings laws, officials and decision makers have learned that they can use walking quorums. In a walking quorum, decision makers numbering less than the quorum will meet, discuss an item and tentatively make a decision, only to convene another meeting of less than a quorum who gathers to discuss and tentatively make a decision, and so on. Walking quorums skirt the public deliberations by the board and keep some of the government work secret or hidden from the public.

It is not clear that the 2016 Supreme Court decision would cover walking quorums.

Members of the Iowa Chapter have seen walking quorums used. In one situation in 2005, the five-member Johnson County Supervisors met two-at-a-time with staff and employees of an engineering firm that was evaluating a road project. As each group of Supervisors attended the meeting, minutes were taken of the discussion. By the time all of the Supervisors had met two-at-a-time, a draft report had been significantly changed at the behest of the majority of the Supervisors. All of this was done outside the public view, but the changes made to the draft report were the result of a majority of the board's opinion.

Walking quorums should be banned in favor of conducting the business of the government in the public.

**"The most important political office is that of the private citizen. "**  
*- Former U.S. Supreme Court Justice Louis Brandeis.*