

VOLUME NO. 38

OPINION NO. 8

OPEN MEETINGS - Open Meetings Law, right of public observation, mechanical recordings of proceedings;
MONTANA CODE ANNOTATED - Section 2-3-201, et seq.;
REVISED CODES OF MONTANA, 1947 - Section 82-3401, et seq.

HELD: A member of the public is authorized to make a mechanical recording of the proceedings and deliberations of an open school board meeting.

13 February 1979

James C. Nelson, Esq.
Glacier County Attorney
Glacier County Courthouse
Cut Bank, Montana 59427

Dear Mr. Nelson:

You have requested my opinion on the following question:

May a member of the public make a mechanical recording of the proceedings and deliberations of an open school board meeting over the objections of the school board?

The Montana Open Meeting Law, section 2-3-201 et seq., MCA (section 82-3401 et seq., R.C.M. 1947), does not specifically address the question you raise. Section 2-3-211, MCA (section 82-3405, R.C.M. 1947), provides that "accredited press representatives" may not be prohibited from recording open meetings. The presiding officer, however, is empowered to assure that this activity "does not interfere with the conduct of the meeting." There is no specific reference in the law to recordings made by any other person.

Section 2-3-201, however, provides:

The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.

It is evident that while some open meetings involve brief, simple issues, others deal with complex and lengthy questions of great public concern. As a meeting increases in length and complexity, so does the difficulty of interested persons of keeping track of what is said and done. This is especially true in situations where public input or comment is solicited, and may also be true when one person is attempting to observe the meetings of several different public bodies. A simple and efficient method for these interested persons to confront these situations is to record the meeting for their own subsequent review, study and analysis.

Therefore, the legislative policy announced in section 2-3-201, MCA, and the mandate for liberal construction, would be furthered by allowing interested members of the public to mechanically record open meetings. The presiding officer of the meeting would still have the power to assure, in accordance with section 2-3-211, MCA, that the recording "does not interfere with the conduct of the meeting."

THEREFORE, IT IS MY OPINION:

A member of the public is authorized to make a mechanical recording of the proceedings and deliberations of an open school board meeting.

Very truly yours,

MIKE GREELY
Attorney General
