

## OPINION

**DATE:** March 4, 2009

**RE:** Open Meetings Act - Destruction of Closed Session Tapes

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Closed session tapes may be destroyed no less than 18 months after the completion of the recorded meeting but only after: (1) the public body approves the destruction of a particular recording; and (2) the public body approves the minutes of the closed session as having met the written minutes requirements of the Open Meetings Act. 5 ILCS 120/2.06(c). In order to approve the meeting minutes, the Board must ensure the minutes include: (1) the date, time and place of the meeting; (2) the members of the public body recorded whether the board attendees were present, absent or present via electronic means; and (3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken. 5 ILCS 120/2.06(a).

The Board is required to meet “periodically, but no less than semi-annually,” to review the minutes of all closed meetings. 5 ILCS 120/2.06(d). During such a meeting, the Board must determine whether the need for confidentiality still exists with regard to the closed meetings. *Id.* “Minutes of meetings closed to the public shall be available only after the public body determines it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential.” 5 ILCS 120/2.06(f). All such determinations should be reported in the minutes of the open session. 5 ILCS 120/2.06(d). If the Board determines the need for confidentiality no longer exists, the minutes should be made available for public inspection. *Id.*

Further, if the Board determines that the need for confidentiality of a closed meeting verbatim recording no longer exists, they may make the recording(s) available for public inspection. 5 ILCS 120/2.06(e). Otherwise, verbatim recordings of closed meetings shall not be made available for public inspection and are not subject to discovery in any administrative or judicial proceeding. *Id.*