

ASK THE LEAGUE

If a development review board or zoning board of adjustment enters a deliberative session on a quasi-judicial matter, does the board then have to reconvene the open meeting to vote and publicly announce its decision?

No, because the law expressly requires that the appropriate municipal panel (AMP) issue a written decision. *“Decisions shall be issued in writing and shall include a statement of the factual bases on which the appropriate municipal panel has made its conclusions and a statement of the conclusions.”* 24 V.S.A. §4464(b)(1). Meeting minutes may be used so long as they contain *“the factual bases and conclusions relating to the review standards.”* Id. Vermont’s open meeting law provides that *“[a] written decision issued by a public body in connection with a quasi-judicial proceeding need not be adopted at an open meeting if the decision will be a public record.”*¹ V.S.A. § 312(f). Since all AMP decisions must be issued in writing and are public records, there is no need to adopt them at an open meeting.

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The Municipal Assistance Center recommends that boards exercise their right to use private deliberative sessions regularly when deciding quasi-judicial matters since the practice leads to more thoughtful decision making. A deliberative session allows members of the board to thoroughly and freely review and discuss evidence – without political or public pressure. It provides an environment in which board members can express their opinions without feeling awkward or self-conscious. Occasionally, the act of drafting the written findings and legal conclusions actually leads to a change in the initial decision, as the facts are identified and better defined. If, at the close of a quasi-judicial hearing, your board is inclined to give the applicant an indication of the board’s direction, we recommend that it be made clear that such verbal notice is preliminary and subject to the actual written decision. By taking the time allowed by law to draft a well-thought-out decision, you may save the town the time and expense of litigating a hastily written one.