



Citizens' Aide/Ombudsman  
Ola Babcock Miller Building  
1112 East Grand Avenue  
Des Moines, IA 50319-0231

## **NEWS RELEASE**

### **State of Iowa Citizens' Aide/Ombudsman**

**July 6, 2011**

#### **Critical Report: "Walking a Fine Line" – An Investigation of the Monticello Mayor & City Council**

**For more information, contact:**

Ruth Cooperrider or Angela McBride at (515) 281-3592 or 1-888-IA-OMBUD (1-888-426-6283) toll free

DES MOINES – Current and former members of the Monticello City Council and the City's former mayor violated the spirit of Iowa's Open Meetings Law when they privately discussed plans to oust their city administrator.

Iowa's Open Meetings Law generally requires a government body to conduct its business in public if a majority of its members deliberate on a subject within its policy making-duties. A government body may vote to close a discussion of a job performance review only if the employee requests closure, and if the closure is deemed necessary to prevent "needless and irreparable injury" to the employee's reputation.

In a 27-page report released yesterday, Iowa Ombudsman Ruth Cooperrider criticized Monticello's elected officials who went house to house in February 2010 to seek a written pledge from individual council members to fire their city administrator if he did not resign. The Ombudsman found that council members privately discussed their opinions of the city administrator's work performance, rather than in a formal Council meeting, as would be expected.

However, the Ombudsman did not find that City officials' actions violated the letter of the Open Meetings Law, since the law does not expressly prohibit a minority number of a government body's members from discussing its business in private. In addition, there was no pre-arranged, concerted effort by a majority of the council members to circumvent the law.

Some government bodies in Iowa have intentionally used so-called "serial meetings" as a way to discuss subjects of public importance outside the earshot of citizens. Cooperrider said this tactic subverts the primary purpose of the Open Meetings Law.

“The purpose of the law is to require meetings of government bodies to be open so the public can attend and know the ‘basis and rationale of government decisions,’” the report read. “Members of government bodies contravene that purpose when they use serial gatherings to arrive at a predetermined result, so as to make the final decision at a meeting a mere formality.”

In the report, Cooperrider urged the Iowa General Assembly to consider new legislation that would address the issue of serial meetings. The Ombudsman proposed legislation in 2005 and 2009 to stop the practice, but the bills did not become law.

Monticello City officials responded to the report with an acknowledgement that “the process could have and should have been handled in a more business-like and open fashion.” The City Council agreed to implement the Ombudsman’s recommendations to review publications about the Open Records and Open Meetings laws, and to undergo training.

Doug Herman, the city administrator, refused to resign when he was presented with the document early last year. After the issue went public, several citizens publicly protested what occurred and spoke in Herman’s defense. The City Council took no further steps to remove Herman, and he remains on the job today.

The Ombudsman’s report was transmitted to the Governor and the Iowa General Assembly and is available online to the media and public. Electronic copies of the report are available at the Ombudsman’s website at:  
<http://www.legis.iowa.gov/Ombudsman/reports/>.

The Office of Iowa’s Citizens’ Aide/Ombudsman investigates complaints about most agencies of state and local governments in Iowa. The Ombudsman may also help people effectively raise their concerns to government agencies or understand why an action was taken.

Iowans can contact the Ombudsman’s office by email at [ombudsman@legis.state.ia.us](mailto:ombudsman@legis.state.ia.us), or by phone, toll-free, at 888-426-6283, or, in the Des Moines area, at (515) 281-3592. The office has a TTY that can be reached using the toll-free number or at (515) 242-5065. The fax number is (515) 242-6007. The office address is Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa 50319. The Ombudsman’s website is at [www.legis.iowa.gov/Ombudsman](http://www.legis.iowa.gov/Ombudsman).