

SCHOOL BOARD MAY HAVE VIOLATED KANSAS OPEN MEETINGS ACT

*PATRICK HENRY ONCE SAID THAT LIBERTY IS NEVER SECURE AS LONG
AS GOVERNMENT DOES BUSINESS IN SECRET.*

The Liberty Sentinel, October 5, 2007

(Mirror) The Tonganoxie Mirror has written a letter to the Leavenworth County Attorney seeking an investigation to determine whether the Tonganoxie school board violated the Kansas Open Meetings Act at a special meeting.

At the board's special meeting Aug. 28, members met in five consecutive sessions for the stated purpose of discussing matters of attorney-client privilege and personnel matters of non-elected personnel. After the three and a half hours of closed-door sessions ended, board members returned to open session and voted, without comment, to accept an organizational chart to "streamline operations and improve communications."

In the letter, Mirror editor John Taylor asked County Attorney Frank Kohl to investigate the action as a violation of the Open Meetings Act.

"The board appears, through its actions, to have violated the Kansas Open Meetings Act by discussing a policy matter rather than individually identifiable employees in the course of the evening's executive sessions," Taylor wrote.

Mike Merriam, a Topeka-based attorney with more than 30 years experience in media law, said it would be difficult to fathom that the board did not discuss and devise the new organizational chart - which is a policy matter - during the closed session.

The Open Meetings Act authorizes closed or executive sessions for 13 specific instances. Attorney General Paul Morrison and Assistant Attorney General Theresa Marcel Bush prepared an annotated guide to the law when Morrison took office in January. In it, they wrote this about executive sessions called to discuss non-elected personnel:

"To discuss an individual, not groups. ... The purpose of this exception is to protect the privacy interests of individuals. Discussion of consolidation of departments or overall salary structure is not a proper topic."

Merriam said the non-elected personnel allowance for closed meetings was

included in the law to protect privacy of an individual employee. He surmised the board went beyond discussing an individual in the executive session.

"When they come out (from executive sessions) and OK an organizational chart, that has nothing to do with protecting the privacy of an individual," he said.

In the letter to Kohl, Taylor wrote, "Because of the public interest in issues surrounding the Tonganoxie Public Schools, The Mirror newspaper requests your office commence an investigation into the meeting to determine whether any violations of the Kansas Open Meetings Act occurred and, if so, to rectify the matter by forcing the board to divulge its discussions in open forum."

Do you have an Open Government experience to share?
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