

Closed meeting notice needs specific reason

State auditor chides MSU on two issues

One of the privileges of being your hotline attorney is that it gives me a view into the many reporting endeavors going on in the state among its newspaper reporters. You have no idea how much fun this is for me!

During the years I spent in law school, my greatest frustration was not being “on the front lines” of the news as I had been as a reporter at the Springfield *Leader & Press* (now *News-Leader*). And the best thing about practicing law with all of you is that I see what you are doing in your newsrooms.

And so, the release a few days ago of the state audit of Missouri State University was as exciting for me as it was for the staff of the Springfield *News-Leader*, I’m sure. I have worked with that staff numerous times in the last few years analyzing concerns about the actions of MSU’s Board of Governors in holding closed meetings that reporters felt were an abuse of the sunshine law.

I have helped draft sunshine law document requests with reporters and pondered how to further request access when the reply from the university was not as forthcoming as the reporters had anticipated. It was clear, in many cases, that responses were narrowly crafted and that documents were being withheld or severely edited before being released.

Clearly, MSU was not operating in a spirit of sunshine.

The report issued by State Auditor Susan Montee on MSU on Oct. 19 doesn’t mince words. “Numerous closed sessions were held by the Board (of MSU) but the various requirements in Chapter 610, RSMo (the Sunshine

Law), regarding closed meetings were not always followed. Open meeting minutes of the Board of Governors do not always document the specific reasons for closing the meeting or the section of law which allows the meeting to be closed. For example, minutes for open session meetings typically stated the Board of Governors would enter closed session to discuss personnel, litigation and real estate; however, while in closed session, the Board only discussed one or two of these topics and not all three as the open meeting minutes indicate.”

If you will remember, last spring I asked for copies of meeting agendas from a variety of public bodies throughout the state. In reviewing those, this was one of the biggest abuses I found. It is almost *de rigeur* among public bodies in the state. In fact, the Board of Governors, in their formal response to the audit, had the audacity to call this practice “a placeholder.”

The sunshine law doesn’t provide that “placeholders” may be used in notices. What’s the purpose of a notice to the public if you feed them bologna?

Clearly, the intent of the notice requirement is to tell specifically what is going to be discussed. The notice is just as important as the vote that is taken to close the meeting, and waiting until the vote to give the reason seems a clear violation of the law. **And numerous public bodies in the state are engaged in this practice. The evidence of that is sitting on the corner of my desk.**

The audit report goes on to cite closed meeting discussions that appear to be about issues which do not fall

under proper closure exceptions. The University board tries to excuse this claiming “the first few times” this had some tenuous tie to a proper reason for closure.

The report also notes that redactions were made to document requests that “did not appear appropriate,” noting that specifically in one case “two of these paragraphs (redacted) documented audit evidence of non-prudent use of university funds.” Clearly, that was what the local news reporter who made the request wanted. And just as clearly, the University sought to hide that evidence.

In its response, the university claims words were redacted “to shield the employee’s identity” because this was an internal audit of a department and involved an employee who was disciplined for improper conduct.

In her response, Auditor Montee notes that the sunshine law only allows closure of information “related to the performance or merit of the employee” and that the law is supposed to be strictly construed to promote the state policy of openness.

During the recent debate between Montee and Tom Schweich, as candidates for the state auditor position, held at the Missouri Press Association Convention at Lake Ozark in October, Montee made an extremely telling statement, I thought. “A large number of audit requests are due to local governmental bodies not complying with the Sunshine Law,” she said.

And among the comments posted on the Springfield *News-Leader’s* website was this: “It’s about time to hit them with the Sunshine Law over and over til they finally learn some respect for the taxpayers who fund them.”

It’s not just the media who cares about this subject. We are the representatives of the public. They definitely care, and we are there in an effort to bring information they want to them.

We as an association cannot thank State Auditor Susan Montee enough for continuing the practice of including a Sunshine Law audit in her audit of governmental bodies on a regular basis. It is an ongoing reminder to public bodies of the importance of this law for the public.



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