

The Chester Telegraph
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May 7, 2019

Meg Alison Powden
Superintendent
Two Rivers Supervisory Union
609 Vermont Route 103
Ludlow, VT 05149

Paul Orzechowski
Chairperson
Two Rivers Supervisory Board
609 Vermont Route 103
Ludlow, VT 05149

Dear Ms. Powden and Mr. Orzechowski:

This is a written notice pursuant to 1 VSA 314 (b)(1) alleging a knowing and intentional violation of Vermont's Open Meeting Law by you and the Board of Directors of the Two Rivers Supervisory Union on Thursday May 2, 2019.

Item nine on the agenda for that meeting was an executive session to be held for "labor relations." Board member Mary Alberty moved to go into executive session but you read (and prompted Ms. Alberty to use) the "specific finding" language in 313 (a)(1) to which she replied "what Meg said."

Since 1 VSA 313 (a)(1)(B) specifically refers to "labor relations agreements with employees" and the last three words were left out of the agenda, our reporter asked which labor agreement you would be talking about.

You said "...It's cited properly Shawn and I don't think we're obligated to give you any further information." We believe that it was not cited properly and by refusing to answer the question, you violated at least the spirit of the law that says that the board must "indicate the nature of the business of the session."

Our reporter pointed to the full wording and asserted that if the session did not pertain to an agreement, it would not fall under the exemption. He went on to ask if any of the six board members knew what the session would be about. Five of them – including Ms. Alberty who made the motions – did not know what topic was to be discussed out of public view. TRSU Board chair Paul Orzechowski at first said he did not know and reversed course when you said he actually did know.

Reaching a "specific finding" requires that the board weighs the facts and circumstances of the issue at hand to reach the conclusion that "premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage." We assert that it is impossible for board members to reach a finding – no less to vote on it – without knowing what the topic is.

The Chester Telegraph has called a number of questionable executive sessions to your attention and to that of the TRSU and Green Mountain Unified School District boards. In response, we have seen the addition of statutory citations in the agenda rather than disclosing "the nature of the business" as required by the statute and the repetition of the "specific finding" language to justify closing the door on the public.

At the meeting, our reporter pointed out to members of the board that making a finding without having knowledge of the issue at hand would lead to the executive session being improperly constituted.

In sum, we allege that the executive session violated the Open Meeting Law for two independent reasons: (1) it did not appear to relate to a “labor relations agreement with employees,” § 313(a)(1) (B), or, if it did, the Board refused to identify it as such; and (2) the Board made no attempt to make “a specific finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage,” § 313(a)(1), and indeed the voting Board members could make no such finding, given that only one of them knew what the discussion was to be about.

16 VSA 561(b)(3) requires that “At least annually, the chairs of each school board within a supervisory union, the chair of the supervisory union board, and the superintendent shall jointly participate in at least eight hours of professional training,” which must specifically include training in the Vermont Open Meeting Law. We believe that having had this legally mandated training several times, you should understand the legal issue here and by continuing with the session you exposed the board to legal liability under 1 VSA 314.

The “cure” envisioned in law is to ratify or declare void any actions taken as a result of the session in a public meeting and by “adopting specific measures that actually prevent future violations.” We believe it would be more constructive for you to admit the knowing and flagrant violation into which you have led the board, disclose what was discussed and arrange a training session for yourself and the members of the supervisory union's various boards conducted by an expert on the topic such as an attorney from the Vermont League of Cities and Towns or the Secretary of State's office. Of course, that would be an open meeting that the public could attend.

We called for this course of action after a violation last year and in response, copies of the statute were handed out at board meetings with little instruction, discussion or any opportunity to ask questions and receive clarification from an authority on the law.

This written notice starts the 10 calendar-day clock for “the public body” to acknowledge the violation and state its intent to cure the violation within 14 calendar days, or state that it has determined that no violation has occurred and that no cure is necessary.

If you have any questions regarding this matter please don't hesitate to call or email me.

Sincerely,

Cynthia L. Prairie
Publisher
The Chester Telegraph

cc: Members and alternates of TRSU Board of Directors

Chris Winters, Deputy Secretary of State, State of Vermont;