

The Chester Telegraph

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

Paul Orzechowski
Chairperson, TRSU
609 Vermont Route 103
Ludlow, VT 05149

Dear Ms. Powden, Mr. Orzechowski and members of the TRSU board,

While we appreciate the fact that Paul Orzechowski, chairman of the Two Rivers Supervisory Union board of directors, accepted responsibility and apologized for the May 2, 2019 violation of the Vermont Open Meeting Law, we do not believe that those actions, nor the upcoming training session, fully address the crux of the violation.

The May 16 special meeting failed to address the fact that:

- School board members could not possibly make a decision to go into executive session because only one member was aware of why they were being asked to go into executive session.
- And, since only one member was aware of why the executive session was called, the body could not make the statutorily required “specific finding that premature public knowledge would clearly place the public body or a person involved at a substantial disadvantage.”

The statute clearly states that it is the *public body* that makes each of those decisions, not just one member of the board.

Without having enough knowledge of why they were being asked to go into executive session *beforehand*, members could not possibly make an informed decision.

The only way for the board to satisfy its obligations under the Open Meeting Law is for the supervisory union, which creates and distributes the agendas, to:

- inform board members what the executive session is for and;
- provide enough information to the board so that it can fulfill its obligations under the Open Meeting Law.

Such information must go out in a timely enough manner that all board members would have the opportunity to read and digest the information given and possibly follow up with the SU on any questions it may have prior to the TRSU board meeting.

We have long advocated for extensive training in Vermont's Open Meeting Law for all public officials, but we note that the agenda for the June 6 TRSU meeting says that a representative of the Vermont School Boards Association will be conducting the training. We understand that the SU has relied on VSBA training sessions for the legally required annual OML trainings of the superintendent and board chairs, but in light of this violation and others we have witnessed, we question the efficacy of such

trainings.

We believe that the best source of this training would be someone who is thoroughly schooled in the Open Meeting Law. We have attended extensive sessions on the law given by Secretary of State Jim Condos and by Garrett Baxter, an attorney with the Vermont League of Cities and Towns, and believe that the best results will come from getting the best person to do the training.

As a reminder, we believe that Paul Orzechowski's explanation of what was wrong with the session failed on at least three counts.

- First, Mr. Orzechowski apologized for not citing the statute correctly and is of the mistaken belief that that is the crux of *The Chester Telegraph* complaint and violation. It is not.
- Second, the session was listed on the agenda as being about "Labor relations," a much broader term than the narrow exemption to the law that allows for discussion of "Labor relations agreements with employees," in other words, collective bargaining agreements. Administrators are "non bargaining staff" who have contracts, but not labor agreements. The executive session arguably could have been done under contracts, but the law still requires the board to "indicate the nature" of what will be talked about, as opposed to simply citing the exemption from the statute. That was not done.
- And third, before it can move to close the door to the public and talk about contracts, agreements and other negotiations *the public body* – not just the chair – must first make that specific finding referred to above. As the motion to enter executive session was being made, members of the board including Mr. Orzechowski told *The Telegraph* they did not know what the private session was about. Superintendent Powden then reminded Mr. Orzechowski that he did know the subject of the executive session. "Yeah, I probably do. It's labor," said Mr. Orzechowski pointing to the agenda.

In the end, to quote Deputy Secretary of State Chris Winters, "Such a finding requires a weighing of specific facts and circumstances that is impossible if you don't know what you are voting on." No such weighing and considering was done by the board.

We have presented a reasonable method for the Supervisory Union to communicate with the board in a timely manner, giving members information they need to make informed decisions about executive sessions. We hope that the board reconsiders and finds a disinterested expert to offer instruction on the Open Meeting Law.

And we sincerely hope that the SU and the TRSU board will take these suggestions to heart and implement them immediately.

Sincerely,

Cynthia Prairie
Publisher
The Chester Telegraph

cc: TRSU board members: Mary Alberty; Deb Brown; Dan Buckley; Joe Fromberger; and Kate Lamphere. And alternates: Fred Marin and Kelly Tarbell.