



BY DEAN COUSINO Monroe News June 9, 2015

Citizens are entitled to more than just a meeting agenda or a property tax notice from their local government.

They are entitled not only to know what the local government body decides, but to observe how and why every decision is reached.

These and other key points were stressed during a seminar on the state's Open Meetings Act and Freedom of Information Act (FOIA) requests held at The Monroe News Monday. About 25 local government officials, county commissioners, law enforcement officers and educators attended the by-invitation only event.

Both acts assure that all U. S. citizens have access to their government and transparency that allows the electorate to make informed decisions and give proper weight to different speakers and messages, said Robin Luce Herrmann, the guest speaker who works for Butzel Long in Detroit and who also serves as general counsel to the Michigan Press Association.

"Open meetings and record laws prevent fraud and corruption in government, which can drive honest citizens out of the democratic process and breeds mistrust of government," Ms. Herrmann said. "Citizens expect due diligence from public officials."

The two laws also "promote governmental accountability" by providing public access to decision making and provide a "means by which the general public may better understand issues and decisions of public concern," she said.

Both statutes will be construed by the courts broadly to promote openness, and any exemptions will be decided narrowly. For example, education records may not be disclosed without the written consent of the student unless an exception is met.

"Thus, you need to make conscientious efforts to comply not only with the letter of these laws, but with the spirit of these laws," Ms. Herrmann said.

FOIA FEES TO TAKE EFFECT

Using a series of gameshow-like questions, she quizzed those present on their knowledge of public bodies, documents and records and what exemptions are allowed under the laws for meeting in closed session.

A new fee schedule for FOIA requests taking effect July 1 will make it standard for all public bodies to charge 10 cents a sheet of paper for copying documents. The fees were part of a bill approved by state lawmakers last year to prevent government agencies from charging excessive fees for FOIAs. House Bill 4001 aimed to curb abusive fees and encourage prompt compliance with the act. The bill makes the fees much more consistent and provides consequences if responses are intentionally delayed. The bill arose after the City of Westland was sued for charging a \$5 fee before it would provide any information and then charging \$1 a page for copying documents and \$ 45 an hour to cover the costs of the information gathering.

The bill also requires public bodies to have a written summary of steps for handling FOIA requests, including itemizing all costs involved in the document gathering. Sitting in the audience Monday, state Rep. Bill LaVoy, D-Monroe, said he voted no on the bill because he favored local control over the issue.

London Township Supervisor Barb Henley said the township was not aware of the changes and currently charges 25 cents a sheet of paper. Monroe Township Supervisor Al Barron and John McCormick, township legal counsel, said the township has only had three issues with FOIA come up in 25 years.

“We’ve tried to be transparent and not tried to hide anything,” Mr. Barron said.

SUNSHINE LAW EXPLAINED

Many of the questions asked by participants centered on the state’s Open Meetings Act, or “sunshine law” as it is known. The law requires all decisions of a public body to be made at a meeting open to the public. It also calls for posting all regular, recessed and special meetings and changes so citizens can attend those as well. The law’s purpose is to promote governmental accountability by providing public access to official decision making.

Although candidates can request their application for employment be considered at a closed meeting, all interviews for candidates for employment or appointment must be held at an open meeting. Secret balloting is illegal. All voting to fill that vacancy must be done in public, too.

Commissioner Jerry Oley, a former board chairman who also served on a school board, said public bodies should limit the amount of closed meetings held.

“They should only be used under extreme situations,” Mr. Oley said after the seminar. “ They should make sure it is truly a permissive issue under the statute. Otherwise it precludes the public from participating.”

PUBLIC COMMENTS DURING A MEETING

As for taking public comments during a meeting, Ms. Herrmann recommended there be two opportunities for citizens to speak: at the beginning before the business matters are considered and at the end.

“The audience generally wants to engage in the discussions,” she said. “Public officials don’t want to engage. They’re here to listen.”

Any time a quorum of members of a public body is present and “collectively deliberating public business,” that gathering should be posted and be open. However, a gathering of members at a social event like a graduation party would not fall under the law, she said.

During a local government meeting, members should not be texting or e- mailing back and forth with one another, she urged. Also, it’s not a good idea to be leaning over to chat with the attorney or someone else nearby that the public can’t hear what you say.

“Don’t do it. Your communications are subject to examination by” all those attending the meeting, she said.

With new technology, questions have been raised of late with board members who “skype” to vote at a meeting when they cannot attend. In general, conversations with the skyping member must be heard by all those present for that member to vote legally, she said.