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Girardeau, MO
Circ. 16797
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114-800
County responds to Sunshine appeal

CAPE COUNTY wants an appeals court to reaffirm a lower court's decision in the case

By **PEG McNICHOL**
SOUTHEAST MISSOURIAN

The attorney representing the Cape Girardeau County Commission filed a response Monday to 2nd District Commissioner Jay Purcell's Sunshine Law suit appeal filed in February. The case is scheduled to be heard by Missouri Eastern District Court of Appeals on April 29.

The county's brief, filed by its Jackson-based attorney, Tom Ludwig, asks the court

to affirm Circuit Court Judge Stephen Mitchell's Oct. 24 ruling for the county. The filing also states that Purcell's suit is technically filed against himself and as such, puts "a heavy burden on [the county's] counsel

to defend and justify his actions."

Purcell sued the commission nearly a year ago, alleging violations of Missouri's Open Meetings and Records Act, commonly known as the Sunshine Law, during the closed portion of an April 17 meeting.

At that meeting, Presiding Commissioner Gerald Jones, then-1st District commissioner Larry Bock and Purcell discussed a controversial road easement

and confronted County Auditor David Ludwig for misusing county computers. Morley Swingle, the county's prosecuting attorney, participated in the meeting as the commission's legal counsel.

Ludwig's filing included a separate motion objecting to the friend of the court brief filed by the Missouri Press Association. The press association's brief, filed Feb. 17, states the association takes "no position and sup-

ports neither party" in the case, but asks the court to preserve or strengthen the Sunshine Law as it applies to using potential litigation as a reason for closing a meeting.

Purcell filed suit in May after it was revealed he had secretly recorded the meeting. Because it is a Sunshine Law violation to record a closed meeting without the consent of officials present, Purcell could face up to 15 days in jail and a \$300 fine.

The case is scheduled for Missouri Eastern District Court of Appeals on April 29 in Farmington, Mo., to be heard by Eastern District Chief Judge Nannette A. Baker, Judge Patricia L. Cohen and Judge Kurt S. Odenwald.

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