



Marshfield Mail
Marshfield, MO
Circ. 5800
From Page:
1
3/24/2010
14840



State agency probes city's handling of Sunshine Law requests

114
107
241
800

By Linda Greer
lindag@marshfieldmail.com

During Sunshine Week (March 14 to 21), as many American cities and counties held training sessions to educate public officials about open records' laws, the Missouri Attorney General's Office began investigating Marshfield's handling of records' requests.

Patricia Churchill, an assistant in the Jefferson City office, confirmed Friday, March 19, the state received at least one complaint and opened an investigation of the city of Marshfield.

See **Requests**, Page 14A





REQUESTS

Continued from Page 1A

Resident Steven Gullett, vice chairman of the Mayor's Committee on Human Rights, said the state office has asked to see his requests for Marshfield city records from the last two years as well as the city's responses.

Gullett said he contacted the state two years ago when the city allegedly filled his requests late, denied him access to public records or charged him excessively for copies and research time. He recently contacted the attorney general's office again, this time to ask why no action was taken two years ago.

"I want them to be held accountable, just as our city should be held accountable for violating people's rights," Gullett said Monday, March 22.

Open records

The law gives governmental bodies 72 hours to produce records following a Sunshine Law request, or to state, in writing, why the request can not be immediately filled. Governmental bodies also cannot deny citizens access to public records to copy themselves.

"Some of the records that they told me don't exist, do exist," Gullett said of Marshfield responses to his requests. "And some of the records that they told me I can't have are public records."

Gullett said the city recently responded that the agendas and meeting minutes he requested will cost more than \$250 for research time. He said the records are readily available in a bound book in City Hall.

Missouri's Sunshine Law states that governmental bodies may determine the amount to charge for copies and research. The body must set reasonable fees, not to exceed "the actual cost of document search and duplication."

Text messages

Following the Thursday, March 11, Marshfield Board of Aldermen meeting, Gullett asked for a printout of text messages after reportedly seeing Police Chief Doug Fannen and Officer Erin Ivie reading and writing text messages as Gullett addressed the board.

Within the three-day deadline, City Clerk Terri Taylor wrote to Gullett that the text messages are not public records.

"Even if it were a public record, it would be considered an investigative report" pursuant to Missouri statutes, Taylor said.

Missouri Press Association Attorney Jean Maneke said in a telephone interview Thursday, March 18, that the Missouri Sunshine Law requires an incident report for law enforcement agencies to justify matters as "under investigation."

Maneke further said the law does not specifically address text messages, but does state that electronic records are public records. However, text messages often are retained only briefly, unless stored in the phone's memory, she said.

Among cellular services, AT&T doesn't save text messages, and Verizon stores them for just a day. Sprint archives text messages for up to five days and has retrieved texts requested under law

enforcement warrants. The only other way to see messages is on the phone itself, if they have not already been deleted, according to the cell phone companies' online information.

Maneke said many cities have now banned public officials from texting during meetings because of the concern and mistrust generated, even if the messages truly are mundane exchanges.

"If someone is using a cell phone to text during a meeting, it certainly raises questions among citizens," Maneke said. "Any messages or calls made on a city-owned phone become property of the city."

Several states' legislatures have restrictions on electronic communication during meetings, ranging from self-policed no-texting rules to making inoperable any device used to transmit data, including cell phones and computers.

Handwritten notes

On March 15, Gullett also requested copies of notes passed by City Attorney David "Chuck" Replogle at the Thursday, Feb. 25, meeting. Taylor wrote that "any confidential or privileged communications between a public governmental body or its representatives and its attorney are considered closed records."

Gullett said he will continue to pursue his right to access public records.

"I am bound and determined to teach our public officials that they work for me, my wife and all of my neighbors," Gullett said. "We don't work for them."

For information on the Missouri Sunshine Law, visit www.moago.org.

Marshfield Mail
Marshfield, MO
Circ. 5800
From Page:
14
3/24/2010
14840

