



OUR VIEW 800 241

The clock ticks to 72

THE ISSUE Use of Sunshine Law's 72-hour rule OUR VIEW Some boards take advantage of it to withhold timely information

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Camdenton, MO
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Tick, tock, tick tock is the sound of the clock as it once again marches second by second toward yet another 72-hour rule limitation.

Meanwhile, Lake Ozark residents wait to learn the results of the latest executive session. We know only that it had to do with a personnel issue.

Missouri's Sunshine Law is intended to make sure the public's business remains public. The 72-hour rule is part of that law known as exception 3. It allows governing bodies up to 72 hours to divulge decisions reached in executive sessions.

The law intends it to allow enough time to notify an employee of termination, for instance, so that said employee doesn't find out about it, for example, through the media.

It is a good rule when used with common sense, but that doesn't appear to always be the case.

"The idea in exception 3 is that the body has no longer than 72 hours to notify the person who was discussed, but that the information should be made public immediately after that event takes place," says Missouri Sunshine Law expert Jean Maneke. "I see that seldom happen - often the person is notified and then the public is put on hold for the rest of the 72 hours."

Governing bodies have up to 72 hours - they are by no means required to wait the full 72 - that is the willful decision, in this case, of Lake Ozark city officials.

In Lake Ozark's case, the city administrator has galvanized a public outcry for his removal that began months ago.

Earlier this week, a board member publically announced switching his support to removing the administrator, giving the movement the four votes it needs for removal.

What would be a reasonable time for

residents to expect information to be released?

"This is difficult to answer," Maneke says. "In most situations, however, it seems like a body should be able to make contact with the individual within 24 hours and then make the public announcement. The 72 hours is to give a window in case the person is gone or otherwise not immediately available."

While city administrator Charles Clark has every expectation to be notified of his termination privately and before it is made public, in this case it is hard to believe it will take three days.

The city of Lake Ozark has made an excessive use of executive session in recent months, including at least two special executive-session-only meetings in addition to the retreating to executive session dur-

ing just about every regularly scheduled meeting.

We don't know the reasons for all those sessions, but it is doubtful they were all about personnel issues. Litigation and real estate matters are also allowed to be discussed in executive session under the Sunshine Law.

Lake Ozark is far from the only governing board to overuse executive sessions and use every minute of the 72-hour rule before releasing information.

We stress that this is not illegal, but we question if it is necessary. Residents have a right to know how they are being governed, and withholding information longer than necessary does not serve their interests.

In the mean time, Lake Ozark residents listen while the clock ticks toward 6:45 p.m. Friday.

If Clark was in fact terminated and has already been notified, residents should not have had to wait so long to find out what is next for their city.





What the law says

Can disciplinary action be taken against a public employee in a closed meeting, and can the public find out what action was taken?

Yes. Under Section 610.021(3) of the Sunshine Law, a public governmental body can close a meeting to consider hiring, firing, disciplining or promoting an employee when personal information about the employee is discussed or recorded. Personal information relates to the performance or merit of that employee. But the vote on any final decision to hire, fire, discipline or promote an employee must be made available to the public within 72 hours after the closed meeting in which such action occurred and must include how each member voted. The employee must be given notice of the decision during the 72-hour period before the decision is made available to the public.

SOURCE: Missouri Attorney General's Office summary

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