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Two board appointments made in closed meeting

Rayville closed-session appointments an apparent violation of Sunshine Law

By David Knopf
News Editor

Two Rayville Board of Trustees members who joined the board in April were appointed at a closed meeting, an apparent violation of the Missouri Sunshine Law.

The Sunshine Law defines the procedures that boards are required to follow in order to protect the public's right to know and ensure that the majority of governmental decisions are made openly.

According to minutes from a "Special Closed Meeting" conducted by Rayville's trustees on April 18, 2009, the board appointed Art Morrell and Leo Smith to fill the seats of Bob Campbell and Betty Mitchell, who resigned at the same meeting.

Smith, the author of a disincorporation petition now circulating in Rayville, said he resigned his seat several months later because of poor hearing.

Morrell is still a member of the board.

Patricia Churchill, chief counsel for Sunshine Law complaints with the Missouri Attorney General's Office, said that the appointments appeared to conflict with rules governing open meetings.

After receiving open-meeting inquiries from Rayville residents, Churchill's office sent the Rayville mayor and the city attorney a letter on Oct. 2 informing them that Sunshine Law issues had been raised about the April meeting.

Asked if a closed meeting would be appropriate for Rayville's actions on April 18, Churchill said, "With the appointment of a trustee, apparently not."

Attorney Jean Maneke, a Sunshine Law authority who advises Missouri Press Association newspapers, said it appeared that Rayville violated the law by not posting the special meeting; by going into closed session without pub-

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licly voting and explaining why a closed meeting was justified; and in appointing board members at a closed meeting.

“That can not be done in a closed session,” Maneke said of the appointments. “They’ve got two problems. If you’re going to hold a closed meeting, you have to post it and then hold a public meeting and vote to go into closed session.”

It’s not known with certainty if the April 18 meeting was posted publicly, as required by the Sunshine law. Linda Campbell, Rayville’s city clerk, said she posts notices outside city hall when asked to do so by Rayville Mayor Richard Wyse.

“Honestly, I’m not sure it was,” said Campbell, who was at the April meeting. “I’ve never had any training and basically I just do what the mayor asks me to do.”

Linda Campbell later produced minutes that detailed the resignations of Bob Campbell, her husband, and Mitchell, and the subsequent appointments of Morrell and Smith to fill their seats.

Wyse declined to elaborate on the legality of the April meeting.

“We’ve been over that a million times and I don’t even want to comment on it,” said Wyse, who couldn’t recall if the meeting was posted. “I’d have to ask Linda (Campbell) about that. I honestly don’t remember.”

It appears that Wyse did try to resolve the controversy that followed the appointments. He said he contacted the Missouri Municipal League, a Jefferson City organization of cities and villages, for advice and was advised to contact the city attorney for a legal opinion on how to proceed.

However, members of the board of trustees have said that messages were left for Lexington attorney Valoree Maycock, the city’s legal advisor at the time, but that May-





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PATRICIA CHURCHILL

chief counsel for Sunshine Law complaints,
 Missouri Attorney General’s office

cock didn’t return the city’s calls.

Maycock, out of the office for the holidays, was unavailable to comment. Wyse, Rayville’s mayor, was also unavailable to confirm that the letter was received.

After much discussion concerning the legality of the appointments, in August Wyse asked Smith and Morrell to resign their seats. According to minutes from a special open meeting on Aug. 15, both men refused.

Smith later resigned, but said he left because issues with his hearing made it difficult for him to follow what was being said at meetings.

Speaking in general about situations like Rayville’s, Churchill, the chief counsel for the attorney general, said her office would typically ask the city or village to voluntarily correct the issue.

“What we do if we get a complaint like this is ordinarily contact the (government) body and ask them to correct the problem,” she said. “You can’t un-ring a bell once it’s been rung, but that’s pretty much what you’d achieve in court, minus any possible fines.”

The attorney general’s Oct. 2 letter stopped short of directly accusing the village of Sunshine Law violations. It did, however, refer officials to Section 610.021 of the Missouri Statutes, which sets out the situations – and procedures with which – a board may legally close a meeting.

Among other things, boards may close meetings to discuss real-estate transactions and personnel issues involving paid employees. Appointing trustees typically would not fall in that category, Churchill said.

Actions taken by an improperly appointed board member could become “voidable,” Churchill said, if the issue were taken to court and a court order were issued. Citizens, the attorney general and local prosecutors, in this case Ray County’s, would all have the option of taking Sunshine Law allegations to court.

“If that happens (a court decision), then everything that illegal member did is voided,” said Maneke, the Missouri Press advisor. Even without a court order, the actions would “carry the taint of impropriety,” she said.

Art Morrell, the appointee who still serves on the board, said he did nothing wrong by attending the meeting and allowing himself to be appointed.

“I was invited to the meeting and I was there as a citizen,” he said. “My opinion was that the meeting could not be closed because the meeting would have to be public and have a vote to go into closed session.”

Morrell said the prevailing thought in Rayville is that the meeting wasn’t posted. And, he conceded, if it were a closed meeting the appointments would have violated the



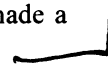


Sunshine Law.

“I agree, but it wasn’t my responsibility to know if the meeting was posted as being open,” he said. “I did think it was unusual that I was one of only a few people there.”

Morrell said he would comply with a request to resign if Wyse and other board members who voted would take responsibility for their actions.

“If the mayor would come forward and say he made a mistake, I’d gladly step down,” he said.



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