

"City may have held illegal meeting"

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Well, duh!

It is interesting that the town's daily newspaper has begun to notice the illegal actions taken by local governments and may even come to realize that new city attorney Dan White is in over his head.

Welcome to my cloud, guys.

It's too bad the daily didn't notice the shenanigans and wrongdoings of the previous administration. Maybe we could have avoided some of the mistakes and cover-ups from those eight years.

Why now and not then?

In a nutshell - Jack Spiker surrendered to the daily within three weeks of taking office as mayor in 2001 and became their "mole" within city government early, then their toady later. It seems that even though Rick Kaysen was smart enough, in the daily's opinion, to serve on their corporate board of directors for over a decade, now he isn't smart enough to be mayor. Funny how the worm turns.

Jack was scared to death of the daily. He went into office terrified that they would be critical of him so he successfully deflected that criticism by rolling over for them. Rick hasn't shown the same inclination. Yet. Rick has an advantage in that the daily has lost whatever influence it may have had back in 2001 and has become a laughingstock in their town. In 2001, coming out of a different editor and a publisher that still pretended that he had learned at the family's knee, the daily still had some influence in forming public opinion.

Now, it has none.

In reporting about the meeting the mayor, city council members and city attorney conducted in secret, apparently discussing subjects not covered under the open meetings statute, a reference was made to the recent Supreme Court ruling in which the Court opened the door for elected bodies to pull stunts like this one. But, the reporter (or an editor later) wrote: **"On January 8 -- just days before the executive session -- the state Supreme Court ruled against the city in the newspaper's lawsuit over a closed meeting in 2008."**

No, it didn't.

The daily can *imagine* they prevailed at the Supreme Court but they did not. To win would have required the Supreme Court to rule the action taken as the result of that closed meeting to be "null and void, not merely voidable," and for them to remand the case back to District Court so fines could be levied against the participants. Neither was done.

As described here a couple issues back, the majority of the Supreme Court ruled that while the City's appeals board defenses in holding such a meeting were bogus - that it was a "quasi-judicial" body and/or it was not a governing body - that because no transcript of minutes of the

closed door meeting was provided in the briefs, there was no evidence that "action" had been taken, and because a subsequent vote was taken in public, no violation of the open meetings law occurred.

That ruling from a majority of the Court was ludicrous. One of the worst ever reached by a generally wise and competent body.

There was clear evidence that "action" was taken behind closed doors in violation of the state's open meetings law. An attorney on the appeals board drafted the document that was quickly approved by the vote in public. Without modification. Had no "action" been taken, that draft agreement would not have been prepared. Why the Justices didn't put two and two together is puzzling. And wrong.

The newspaper wants to believe they prevailed in that decision but it is impossible to reach that conclusion. For everyone but them. The Supreme Court gave the WTE no precedent that should make them believe they can prevail on any meeting held behind closed doors - IF later a formal vote is later taken in public. A review of the lengthy debate held behind closed doors can be brief and leave out all pertinent discussion that led to an issue being approved. It only needs to have a show of hands, voice vote or roll call vote done in public later to cancel lawlessness under which they got to that point.

If that constitutes a "win" in the daily's mind - and in the mind of their attorney who did a poor job presenting the case to the Supreme Court - it is no wonder the people in Cheyenne no longer believe they have Fourth Estate representation from a daily newspaper.

Interestingly, in the recent case decided in favor of the City by the Supreme Court, the appeals board that met illegally in closed session and did everything but take a formal vote in secret - they likely conducted a wink and a nod "collective decision" vote - was very careful not to designate that meeting out of view of the media and members of the public as an "executive session."

The reason? Because executive sessions are covered specifically under Wyoming law. What *can* be done in executive session is not open to debate and is not confusing. (See page 5.) It is clear cut.

Some of what the mayor, council and city attorney recently did in secret session was not allowed in executive sessions under Wyoming law.

If anyone thinks this was the first time such discussion has been held behind closed doors, they'd be wrong. Very wrong. Much action and many decisions by Cheyenne's governing body have been done in contravention to Wyoming state law. A new city attorney, and an attorney who believes his only job is to represent the best interests of the City's mayor, simply does not know nor understand state law as it applies to such matters. And, his response to the daily was the

same as the response given to me earlier when he was asked a question for which he had no correct legal answer: "No comment."

Even though his predecessor was often wrong in his legal opinions, he always thought he was right and had a comment.

There is no way on God's green earth that Rick can carry this attorney for four years. The City cannot afford the poor legal advice he has given and will continue to give. He must go and the sooner, the better. He is too risky to retain.

Members of the current Cheyenne governing body have extreme longevity. They should know what is and what is not allowed in executive session. The statute is not complicated and it is not lengthy.

Jack Spiker served one full term on city council and two as mayor. He is going into his fourteen year on the governing body. Don Pierson was first elected in 1994. He has served uninterrupted for 17 years. Mark Rinne served two terms ending in 1997 and is going into the fourth year of his current term - 11 years in all. Judy Case and Jimmy Valdez were elected together in 1998. Judy defeated Jimmy in 2002 when the braintrust tried to rid the council of her by redrawing Ward boundaries and throwing her in with Jimmy so he could defeat her and send her packing. She won that election but Jimmy was later appointed to serve out Tom Scherr's term so Judy has 11 years on council and Jimmy about 10. Patrick Collins was first elected in 2000. He has nine years on council. Jim Brown and Georgia Broyles are newer members. Amber Ash is in her first term and barely into her second year on the city council.

Somebody should have picked up on the inappropriate (spelled "illegal") conduct of that recent executive session. Truth is, no one with the lengthy experience wanted to. They firmly believe they can

do anything they want to - that they are "representatives" of the voters and if the voters didn't want them doing whatever they wanted to, they would not keep electing them. That is the reality of the situation. That is their belief.

When you combine that attitude with a new mayor who does not yet know the ropes and a city attorney who does not prepare himself and we've got a helluva mess. Remember, also, most of these council members, except Ash, served under Spiker and the daily newspaper did not object to illegal behavior and improper conduct on their part at any time in the past. In fact, on serial illegal annexations, the daily encouraged them to continue to take the illegal actions. The daily themselves made illegal campaign contributions for tax propositions and favored one side over the other with discounted advertising rates. They're not exactly a paragon of virtue. Or lawful conduct.

So, it had to come as a huge shock to the eight council members who have been around for a long time that the daily newspaper in town now pretends to care - that the daily now appears to have become a watchdog instead of a lapdog.

Wow, what a concept!

Right or wrong, legal or illegal, proper or improper - it really does not matter much if city or county government, LCSD1 or LCCC trustees, or any other governing body, holds illegal closed meetings. The Supreme Court may agree, if a case is filed and an appeal gets to the High Court, that the group behaved illegally but until the Legislature changes the language to satisfy certain Supreme Court justices, nothing will come of those illegal closed door meetings. Actions will not be voided and fines will not be imposed.

The Supreme Court simply does not care if others hold discussions as they do - in secret and behind closed doors.

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