



Open Records Counsel valuable

But public often apathetic on open government

BY MARK BELL • MBELL@DNJ.COM • March 19, 2010

Even though the Tennessee Office of Open Records Counsel is proving to be a valuable resource for thousands of people across the state, local Rutherford Neighborhood Alliance president Susan Allen feels the majority of local residents don't give much thought to open records, sunshine laws or local government.

"I think the majority of people are so busy that they don't even try to understand what their government does for them," she said.

A recent report from the Tennessee Office of Open Records Counsel shows that more than 1,000 inquiries concerning open records and sunshine laws were made in the past year. Half of them were made by representatives of government of records custodians while the other half came from citizens and the media.

An example of one of the questions included in the Open Records Counsel's report concerned a violation of the Open Meetings Act. The question asked if it was a violation of the Open Meetings Act "for an election commission to meet outside of a public meeting and make the decision to fire the administrator of elections?"

The definitive answer from the Office of Open Records Council was "Yes."

"The election commission is subject to the act and, as such, any deliberation has to be done in a public meeting and decisions have to be made in a public meeting," the report reads. "If the commissioners deliberate or make any decision on an issue that they are required to vote on at a public meeting, then a violation has occurred."

Allen said she believes public understanding of the Public Records Law is important because it eventually leads to the formation of an opinion or non-opinion concerning important government decisions and processes.

"The Rutherford Neighborhood Alliance gets involved in certain issues (only after) doing a lot of research to understand the background and the laws that may be a part of what we're looking at," she said. "Because the open records laws make a lot of the information we need available, that allows us to form our opinion one way or the other or to not form an opinion at all."

But there are still obvious obstacles with informing the public about Tennessee's open records law, according to Allen and the Open Records Counsel's report.

The Open Records Counsel's report states that there are a number of recurring issues and questions from those seeking to understand the state's open records.

"Since there is not one place within the law that contains a list of all of the exceptions to the (law), governmental entities request assistance in determining whether or not there is a provision within the law that provides the basis for denying a request," the report reads. "Citizens request

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assistance in determining whether or not records are public before a request is made. Citizens also frequently request assistance in determining whether or not the basis cited for a denial is appropriate."

Allen said she believes there are problems with finding the proper channel to get an open records or Sunshine Law question answered.

"I think not knowing what channels to follow to get an actual answer on the laws or a definitive answer on whether or not an open records law has been violated are the biggest problems," Allen said. "Even if you formulate a question about the law you have to know who to ask."

Another problem includes the \$2 per page fee for transcripts of public meetings, she said.

On the flip side, Allen said, she is impressed by the steps taken by Rutherford County government to make meetings available for streaming at any time on Youtube.com, as that serves as an open public record that one can review at all times free of charge.

"You can rewind and play it over and over and over," she said. "If you've got an interest in something being discussed you can go back and get clarification on the discussion."

The Office of Open Records Counsel which promotes education and awareness of the Tennessee Public Records Act and Tennessee Open Meetings Act, also identified and addressed some big issues over the past year across the state and is always looking to address problems like those mentioned by Allen.

Just over the past year, council members issued 13 advisory opinions, made more than 17 presentations to groups and organizations, provided testimony in three court cases and developed forms and materials for local governments planning to use the Internet for communication.

To contact the Open Records Council with questions concerning public records and open meetings, call 615-401-7892 or go to www.state.tn.us/comptroller/openrecords/reports.htm.

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