
THE BRECHNER REPORT

Volume 24, Number 4 ■ A monthly report of mass media law in Florida

Published by The Brechner Center for Freedom of Information ■ College of Journalism and Communications ■ University of Florida

April 2000

City Council admits violating Open Meeting Law

DAYTONA BEACH—Private meetings held with a developer violated the Open Meetings Law, admitted the Daytona Beach City Council. The disclosure comes after a complaint was filed with the council by *The News Journal*.

ACCESS MEETINGS

Council members admitted to

meeting with DiMucci Development Corporation on five separate occasions last year to discuss a federal lawsuit involving the construction of two oceanside condominiums developments.

The News Journal

uncovered the private meetings following

a review of the transcripts from the meetings and requested a statement from the council admitting the private meetings were held. "If they say we agree, that's that," said Jake Kaney, the paper's attorney. "If they disagree, there's a dispute." If the council had disagreed with them, then the paper would have taken the council to court, said Kaney. (2/10/00)

Council settles lawsuit, but won't cover mayor's legal fees

ANNA MARIA – The city council agreed to settle a public records lawsuit with the publisher of a local weekly newspaper, but will not pay for the mayor's legal fees in a related criminal case.

ACCESS RECORDS

The lawsuit was filed by Connor

Presswood last year after Mayor Chuck Shumard refused a request by the newspaper for copies of resumes collected for the city clerk's job.

Presswood filed a complaint with the Manatee County Sheriff's office and filed a criminal

complaint against Shumard.

Copies of the resumes were released to the paper shortly after the charges were filed and Presswood was reimbursed for her legal fees.

Shumard's legal fees will not be paid by the city after he pleaded no contest to the criminal charges. (2/6/00)

Sheriff withholding records violated law

WEST PALM BEACH—Withholding the results of internal affair investigations by the Palm Beach County sheriff's office violates the Public Records Law, ruled a 4th District Court of Appeals three-judge panel.

Sheriff Bob Neumann claimed that

internal investigation reports were not public until he signed them, but the judges disagreed. Neumann was sued by the county Police Benevolent Association in 1998 for not releasing investigative files on one of its members. (1/28/00)

"Choose Life" plate on hold for now

WEST PALM BEACH – A 15th Circuit court judge has held up the distribution of the new "Choose Life" license plates, pending a ruling on whether officials are making a political statement against abortion rights.

FIRST AMENDMENT

Judge Lucy Chernow Brown's

order has delayed the state's plans to distribute the plates. Supporters of the plates say that the message is meant to support adoption, while those opposed to the plates say that they are a state-sanctioned political statement against abortion rights. (2/8/00)

Press restricted access to prisoners

TALLAHASSEE – Reporter access to prisoners may be restricted due to prison official concerns that the prisoners are being glorified by the press.

Florida Department of Corrections secretary Michael Moore wants to curtail access, saying that interviews tend to glamorize prisoners, portray them in a sympathetic light and cause more pain to victims.

Opponents of the restrictions say that the move is an attempt to silence inmate complaints, improper medical treatment and department cover-ups. (2/11/00)

(Editor's Note: See related opinion pieces on The Back Page).

Mayor should release files stored on home computer

NEPTUNE BEACH — Neptune Beach Mayor George Vaughn should turn over records relating to city business produced on his home computer, says the city attorney.

Harriett Pruette, a former campaign

supporter of the mayor, requested copies of city records stored on the Vaughn's personal computer.

In a letter to the mayor's attorney, Eric Block, city attorney Christopher White notes that the city is obligated to comply

with the request. "Under Florida law, an agency or public official cannot refuse to allow inspection or copying of public records on the grounds that the request is overbroad or lacks particularity," according to Block. (1/26/00)

Council opens employee e-mail to public review

BROOKSVILLE — In an effort to bring the Hernando county into compliance with state law, all e-mail created, transmitted or received by county employees relating to official business will be public records,

according to a new policy established by the county commissioners.

Following the unanimous approval of the measure by the commission, county staff members are examining cost-effective

measures for public record access. Among the options being reviewed are making the messages available on county computer kiosks or placing the information on the Internet. (2/16/00)

County may charge for public records review

FT. LAUDERDALE — A county may adopt a policy imposing a special service charge where extensive clerical or supervisory assistance is required for those seeking review of public records, according to a legal opinion from the Attorney General's office.

Edward Dion, Broward County's attorney, sought the opinion from the

Attorney General's office after a public citizen requested a review of selected building permit records. Almost all of the records were originals and a clerk was assigned to assist the individual.

Following the hour-long review of the records, the individual was charged for the clerk's time, which was \$7.50. The amount was later refunded to the individual since

there was no written county policy.

Although the county may adopt a policy, according to Attorney General Bob Butterworth, it should reflect, "no more than the actual cost of the personnel's time and be sensitive to accommodating the request in such a way as to ensure unfiltered access while safeguarding the records." (AGO 2000-11, 2/21/00)

ACCESS MEETINGS CONTINUED

County meetings open says judge

BARTOW — A 10th Circuit Court judge has ruled that the Polk County Commission did not violate Florida Open Meetings Law and dismissed a lawsuit filed by a local activist group.

According to Judge Cecelia Moore, the rules and policies established by the commission were within state guidelines.

Moore acknowledged that her ruling may be appealed by The Citizens for Truth In Government, who filed the suit last year, "This ain't the last stop this train is going to make," Moore said. The group's attorney said he will appeal the ruling. (1/27/00)

Open fire meetings

TALLAHASSEE — Meetings conducted by the Bonita Springs Fire Control and Rescue District are subject to the Open Meetings Law, according to state Attorney General Bob Butterworth.

Bonita Springs is one of 17 independent special fire control districts operating in Lee County. No policy-making or decision-making may take place at the informal monthly meetings.

"On some occasions, more than one commissioner may attend the same meetings and matters may be discussed that may foreseeably come before a district for consideration," wrote Butterworth. (AGO 2000-08, 2/9/00)

DECISIONS ON FILE

Copies of case opinions, attorney general opinions, or legislation reported in any issue as on file may be obtained upon request from the Brechner Center for Freedom of Information, College of Journalism and Communications, 3208 Weimer Hall, University of Florida, Gainesville, FL 32611-8400, (352) 392-2273.

REPORTER'S PRIVILEGE

Judge rules against subpoena

BARTOW — Saying that a subpoena request was overbroad, a 10th Circuit Court judge denied a sheriff's request for copies of a reporter's notes.

Polk County Sheriff Lawrence Crow, Jr., sought copies of notes used by *Lakeland Ledger* reporter Sam Cardinale in a story about a 18-year-old unsolved killing of a Frostproof police officer. The story ran in the paper last March.

Following publication of the story, the *Lakeland Ledger* filed a lawsuit against the sheriff's office for copies of records about the killing. Due to the ongoing investigation, the documents are not available, said Crow.

Judge Cecelia Moore told attorneys that once the subpoena is redrawn, she will hold a hearing to decide on whether the reporter should turn over his notes. (2/12/00)

Council racks it up with proposed newsrack regulations

SEMINOLE – Saying some newspaper racks may not be “worthy” to be placed on street corners, the Seminole City Council is proposing new regulations.

Council members say that their measure would address visual and safety concerns raised by residents. The proposed ordinance would regulate box placement, lettering and even the color of the box. In

addition, box owners would have to register their boxes with the city, show proof of insurance and pay a returnable bond.

Nearby cities have attempted to pass similar ordinances in the past. News organizations such as the *St. Petersburg Times* and *The Tampa Tribune* have fought against such measures. By trying

to regulate the color and type of boxes used, “Seminole has just, in fact, picked a fight with the *Times*,” said Alison Steele, an attorney for the *St. Petersburg Times*.

According to Steele, the paper has an ongoing dialogue with the city to address their concerns in a voluntary manner. “There’s so much more we can do than government can do,” said Steele. (1/27/00)

CENSORSHIP

Principal bans new Harry Potter books

TAMPA – The principal at Carrollwood Elementary School has banned ordering of additional Harry Potter books for the school’s library, claiming that the book’s wizardry and witchcraft themes might be objectionable to parents.

Although she’s received no complaints, Principal Joan Bookman feels that some might object to the books. “We just knew that we probably had some

parents who wouldn’t want their children to read these books,” she said.

The books, part of an ongoing series about a young apprentice wizard, are extremely popular with children and have held three of the top four spots on *The New York Times* bestseller list. The school’s library has the first edition of the series and Bookman will allow students to bring copies of the books to school. (1/28/00)

NEWS NOTES

No news not good for prisoners

SARASOTA – A ban on inmate newspaper subscriptions by prison officials is upsetting prisoners and their advocates, but officials say that the papers pose a security threat. The newspaper ban will affect about 900 inmates.

Newspapers were being used to screen views, plug up toilets and fashioned into makeshift weapons, said Sarasota County jail officials. “It’s more of a

safety-security issue,” said Sgt. Dave Hart. “They have TV, so they get their news that way.”

Prison officials could not cite an example of a newspaper being used to attack another prisoner, but said they had photos of makeshift newspaper weapons.

Some inmates say that newspapers are their information source, and one has asked officials to reconsider the ban. (2/9/00)

ADVERTISING

Billboard art not ad says advertisers

MIAMI – An advertising company has sued the City of Miami over the city’s right to decide what is “art.”

In their suit filed in federal court, Outdoor Images, an Oregon-based advertising company, claims their images, which include a 10-story-high depiction of a basketball hoop for Nike, is art. City officials call it advertising, a violation of a ban on new billboard advertising in downtown Miami.

In 1998, the Miami City Commissioner issued the ban and appointed the city’s Urban Design Review Board, a nine-member panel of architects and landscape architects, to review proposed works. According to the ordinance, “commercial messages” are limited to a maximum of 10 percent of the graphic surface.

“A government cannot decide what is art and what is not,” said Gene Stearns, the company’s attorney. (2/8/00)

COPYRIGHT

No state trademarks

TALLAHASSEE – A state agency is not authorized to secure or hold a trademark for a particular program name without specific statutory authority to do so, according to Attorney General Bob Butterworth.

Deborah Kearney, general counsel for the Department of State, sought the opinion after her department was contacted for assistance in obtaining a trademark for a program name.

While some state agencies hold trademarks or registration marks such as the Department of the Lottery or the Division of Historical Resources, the authority to hold those trademarks were granted by legislative authority, according to Butterworth. (AGO 2000-13, 2/22/00)

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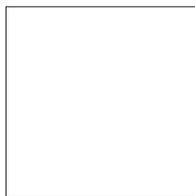
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The Brechner Report is published 12 times a year under the auspices of the University of Florida Foundation. *The Brechner Report* is a joint effort of The Brechner Center for Freedom of Information, the University of Florida College of Journalism and Communications, the Florida Press Association, the Florida Association of Broadcasters, the Florida Society of Newspaper Editors and the Joseph L. Brechner Endowment.

Debate over publishing names continues

What's in a name? Plenty if it belongs to someone suspected of a crime. The debate to publish or not to publish the names of suspected or convicted criminals continues in classrooms, courtrooms and pressrooms. Here are two differing points of view from two editors at the *Sarasota Herald-Tribune*.



Janet Weaver

As a journalist, there are some areas with no definite answer of right or wrong.. One such topic of debate is publishing the names and addresses of certain classes of convicted or suspected criminals at the request of law enforcement.

There's no easy answer, but I come down on the side of not publishing.

I had to wrestle with this issue in a particularly horrible case several months ago, after an arrest of a sexual offender in a high-profile murder case. The sheriff made the point then that if the newspapers in the area routinely

The Back Page

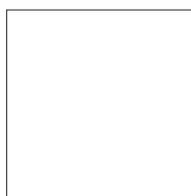
By Janet Weaver and Rosemary Yarmao

that would have saved her life.

I said then there were some flaws in that reasoning: It presumes that the information provided to the newspaper is accurate - that addresses and names are all up to date. It presumes that everyone reads the paper and would get the information that way.

But those aren't the biggest reasons for my discomfort. I am uncomfortable with the idea of choosing certain classes of crimes and criminals - in this case, people who have served their prescribed sentence and been released back into the community - and singling them out for a public shaming.

It smacks of using the newspaper as an instrument of punishment. And that is most certainly not our role. I believe that it starts to move us across a line, from being an independent press to serving as an extension of government. And that is a line we cannot cross, even in the name of the best of causes.



Rosemary Yarmao

I agree with everything Executive Editor Janet Weaver writes here. I just think she's wrong.

If a convicted sex offender moves in next door to me, I want to know about it.

I have children, so I even consider this information vital. I suspect you do, too, and the job of a newspaper is to provide information that readers want or need.

Yes, lists provided by law enforcement would have to be carefully checked for accuracy and updated. We could do that. We routinely check police reports of crimes and accidents that we want to publish.

Publication of sex offenders' names might further punish those who have completed their time, but we accept in the newsroom that printing stories of crimes and accidents might cause the survivors and victims extra grief or embarrass perpetrators who have never done anything wrong before.

Do sex offenders really warrant special consideration of privacy? I ask that especially in light of research showing that sex offenders are rarely one-time-only offenders.

Like Janet, I see a discrepancy in the policies of many newspapers, including ours, that print names and information about some individuals charged with crimes, but not others. We run lists of suspected drunken drivers but not of suspected car thieves or of suspected johns involved with Sarasota prostitutes.

I would fix the discrepancy, not by refusing to print, as Janet proposes, but by printing everything.

Face it, news is often about people's private lives. If we kept everything out of the newspaper that could punish or embarrass someone, we'd save a lot on newsprint.

Editor's Note: Janet Weaver is the Executive Editor and Rosemary Yarmao is the Managing Editor for the Sarasota-Herald Tribune. The preceding columns were first published in the Herald-Tribune on January 9, 2000. They are reprinted here with permission.
