

Newspaper sues Ravalli County commissioners for improper meeting notice

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By WHITNEY BERMES Ravalli Republic missoulia.com | Posted: Monday, October 10, 2011 6:30 pm | 1 Comment

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.HAMILTON - A weekly newspaper and watchdog website have filed suit against the Ravalli County commissioners, alleging the board held a meeting - and approved a legal settlement - without proper public notice.

Bitterroot Star publisher Michael Howell along with Lee Tickell and Maggie Wright of the Ravalli County Watchdog website filed a suit in District Court last week claiming commissioners violated Montana open meeting laws.

At the Aug. 15 meeting, commissioners signed an agreement with Deputy Ravalli County Attorney Geoff Mahar.

The employment/separation settlement keeps Mahar on as a paid county employee for two years, but he will not work in the county offices.

Mahar will be paid his current annual salary of \$75,733, as well as health insurance and monthly retirement benefits.

The meeting was noticed on their agenda as a "personnel matter - closed door may be invoked under MCA 2-3-203," which is Montana's open meeting law.

The petitioners are asking for the agreement with Mahar to be declared void because they deem that notice insufficient.

"This notice is grossly inadequate for a decision of such significant public interest and fails to give the proper public notice," the suit reads. "Accordingly, the public had no opportunity for citizen participation in approving said settlement."

Tickell said the public was left in the dark on the issue and wasn't given an opportunity to meaningfully participate.

By doing so, the suit claims, the board violated the public's right to know and participate as guaranteed in the Montana Constitution.

"That's a basic fundamental constitutional right," Tickell said. "When it involved a quarter of a million dollar settlement, I think people should have been notified and able to participate."

Tickell said he wrote a letter to the board outlining their issues with this "secret meeting." He asked the commissioners not to adopt the minutes from the Aug. 15 meeting until there could be "proper notice of a public meeting of significant interest."

The board referred the matter to the county attorney's office for his consideration, Tickell said. Tickell had 30 days to file an action based on his complaint if no relief was provided. Once that time period passed without any action by the county, the three filed suit in District Court.

"We knew what we were going to do if we hadn't heard back from them," Tickell said. "Quite frankly, one thing we will not tolerate is being ignored."

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The commissioners' decision to settle with Mahar came after he filed two complaints with the Montana Human Rights Bureau - one against the county and one against County Attorney Bill Fulbright.

Both the commission and Mahar have objected to the release of those complaints. Tickell and Howell, along with Bill LaCroix of the Bitterroot Human Rights Alliance, have asked for a formal hearing before the Department of Labor and Industry Hearing Bureau. That hearing is set for Monday, Oct. 17 via teleconference.

Commissioner Matt Kanenwisher said he understands why the group is filing suit. However, he said he is unsure how to weigh a public's right to know against an employee's right to privacy.

"I have as many legal questions as anybody else," he said. "I understand the concern. Frankly, I understand the desire to know. But I don't know what they are legally entitled to."

Kanenwisher said county employees, including Mahar, have privacy rights that supersede the public's right to know and justify closed-door meetings.

"When you have a closed door, personnel employee meeting, does simply saying who it's about violate their privacy?" Kanenwisher said. "They're saying you have to tell us who the individual is. That's a matter of law and our attorneys have said otherwise."

"What I've never understood is how we're supposed to have a public conversation on something we can't talk about."

Reporter Whitney Bermes can be reached at 363-3300 or at [whitney.bermes@ravallirepublic.com](mailto:whitney.bermes@ravallirepublic.com).

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