

THANK YOU members of the House State Government Committee, including Chairman Daryl Metcalfe and Rep. Rick Saccone, for allowing me to offer remarks on House Bill 1617 that would make changes to the Executive Sessions portion of the Sunshine Law, and regarding transparency in government in general.

I'm publisher of **The Express**, a 132-year-old community newspaper serving 10,000 daily print edition readers and thousands more readers of www.lockhaven.com. Our market includes all of Clinton County and portions of Centre and Lycoming counties in Central Pennsylvania. We're based in downtown Lock Haven.

I've worked in the newspaper industry for 30 years, first as a carrier, then a reporter intern, regional news editor, executive editor, and I served nearly two years as interim publisher of one of our sister newspapers, the Williamsport Sun-Gazette.

I've learned that among a newspaper's most important jobs is being a watchdog of local governments so that taxpayers and constituents are properly – and accurately – informed about how their money is being invested.

For some context, Clinton County is rural. In fact, 70 percent of the county is state forestland. But it does have more than 30 municipalities – the city, several boroughs and a bunch of second class townships, some with few permanent residents.

When it comes to local government, there are a lot of good public servants. It's important I say that, from my heart. I know many of them.

That's partly why my mission, and that of the newspaper where I work, is to always try to be credible, accurate, objective and to have integrity. We work to be a consensus builder amid what I see is a growing culture where opinion and perceptions are narrated as fact.

Amid this growing culture, Right to Know and Transparency in Government is even more critical.

In the scheme of making decisions about money, people, policies and everything that goes with governing, I see too many examples of what I'll politely call a lack of proper protocol. Finances are tight; people need to be held accountable. Our local government leaders constantly face the difficult choice between doing what's right and doing what they're forced to do.

In recent years, we've experienced increasing situations where we've had to be more diligent about getting information from public officials to provide to the public.

It's about accountability, and we hold that mirror in front of our faces, too.

We have situations in our rural area where, out of the blue, a township board or borough council will call an executive session and say it's for legal issues. A good example is Mill Hall Borough, a small municipality with a single building and one meeting room. This council has been notorious for holding lengthy closed-door sessions, especially when it was working on a Consent Order and Agreement with the state Department of Environmental Protection that mandated significant improvements to its sanitary sewage collection system, which was crumbling and allowing large amounts of storm-water to seep into pipes. The public is truly inconvenienced when a closed-door session is held because citizens must leave the building. Borough Hall has no other public rooms. It consists of the borough office/meeting room, the garage area and the police department. Citizens congregate in the parking lot until they run out of patience and leave, or until a council member opens the front door, the signal that they may go inside again. If they want to stay warm in the winter, citizens must sit in their personal cars and run their engines.

This kind of experience compelled us this past year to have reporters cover their regular meetings and, if circumstances arose bringing into question the Sunshine Law, they were to make special notes. We focused on several councils and the school board over several months of meetings. We found violations of the Sunshine Law. We published multiple stories on one day in November – we've submitted the series, called "Behind Closed Doors," to the committee for the record. In this series, you'll find:

- **KEYSTONE CENTRAL SCHOOL BOARD** – We found practices at the Oct. 3, 2013 meeting that did not appear to be in compliance with the Sunshine Act. About an hour into the meeting, they called an executive session without explanation. They returned about 40 minutes later and again they did not explain the reason for the session. The board called another executive session at its Nov. 7 meeting and it lasted for quite a while and was held for "personnel reasons." But it came during a meeting attended by parents concerned over a recent and serious situation whereby state police felt someone was a "potential threat" to commit violence at a school. That threat, meant to be for building staff only, was made public on Facebook and had prompted hundreds of parents to pull their kids from school one day about a week earlier. The executive session came at a time when parents attended to ask the board questions about the incident, but prompted some to leave, believing the board wouldn't hear them.

- **WAYNE TOWNSHIP BOARD OF SUPERVISORS** – We documented Sunshine Act compliance concerns during a supervisors’ meeting. As you’ll read, supervisors announced an executive session at 7:20 p.m. Oct. 21. The township solicitor used the phrase “pending and potential litigation” to justify the session. Our reporter objected to the description as too vague, and mentioned the law requires a level of specificity, including the name of the plaintiff or complainant and the defendant, and the case number if available. The attorney just laughed as he walked into a nearby room.
- **BELLEFONTE AREA SCHOOL BOARD** - Board Vice President Jeff Steiner, who was running the Oct. 8, 2013, meeting in the president’s absence, said, “The board will be meeting in executive session regarding a personnel matter.” No further explanation was offered. More detail should have been offered in compliance with the Sunshine Law and the Commonwealth Court ruling that held that agencies must announce specific reasons, identifying real, discrete matters best addressed in private when announcing justification for an executive session.
- **BELLEFONTE BOROUGH COUNCIL** - Council went into executive session on Oct. 21, 2013, to discuss “personnel” matters. Again, that’s not sufficient. After the public meeting adjourned, Bellefonte Manager Ralph Stewart told The Express that council discussed the vacancy of a part-time position within the police department and then returned to the public meeting later that evening to approve filling the position.
- Saying only to discuss “personnel” matters is deficient and not in compliance with the Sunshine Law

For the sake of **BALANCED REPORTING**, we also used Lock Haven City Council in our reports as an example of a local government that does it right. They always hold executive sessions at the end of their meetings, and they provide adequate explanation as to what they’re discussing. They schedule executive sessions and put that schedule on their public meeting agendas so the public and media know when to expect them.

Well, just last week Lock Haven City Council held interviews for prospective council candidates following a mid-term resignation. They told The Express the interviews on March 3 would be closed on the grounds that a discussion of council candidates falls under “personnel.” We objected, and in concert with our media counsel, told the mayor the process of filling a vacancy in elected office must be public, including interviews, if conducted by a quorum of council. We subsequently talked to the city solicitor and he agreed that the process should’ve been open, based on the fact that the campaign and election process people go through to obtain elected office is public, so the process to fill a vacant seat should be no less public.

I also want to make an important note as to a trend I've seen in recent years: I think you'll find that many local governments have stopped past practice of having their solicitors attend their public meetings. I would offer that it's because of cost. But as a result, we think that has opened the door to more varied interpretations and practices – and violations – as to how executive sessions are handled or held. In fact, might I say that practice has led to some local government leaders interpreting the Sunshine Law as they see fit.

It's clear that the media and individual citizens are the ones enforcing the Sunshine Law. I won't get into why. I'll only conclude by saying that we have to keep laws supporting transparency in government strong. We have to keep our public servants accountable so that we can keep ourselves accountable.

We cannot ask anything less of ourselves.

THANK YOU

Robert O. "Bob" Rolley, Jr.

Publisher, The Express community newspaper

Lock Haven, Pa., 17745



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THURSDAY

PRIVATE BEHIND CLOSED DOORS

HOW TRANSPARENT ARE OUR LOCAL GOVERNMENTS?

By WENDY STIVER
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Local governments in Pennsylvania are required to conduct their business in the light of day, under public scrutiny. There are certain exceptions, though — personnel matters including contract talks, legal matters, buying land, and “business that would be a violation of the law if disclosed.”

If a discussion is needed on any of these issues, an executive session, which is closed to the public, may legally be called during a public meeting.

Lock Haven City Council handles its executive sessions in a manner that shows regard for the public. Council continues its decades-old practice of saving its closed-door session (when one is needed) until the end of the meeting.

Council meets twice a month, and when an issue needs to be discussed frankly behind closed doors, it usually will be held for a vote until the next meeting.

Other local governments that meet only once a month have a tendency to hold their closed discussions in the middle of their voting meetings. This way, the elected officials can speak their mind without

See TRANSPARENT, A5

Sunshine Law difficult to enforce

By JENNIFER MILLER
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In Pennsylvania, the Open Meetings Law, which is also known as the Sunshine Act, is intended to ensure local government business is open and transparent to the public.

However, should a citizen or member of the news media feel a government agency is violating the law, it is a complicated process to challenge a perceived violation.

The state Legislature’s intent with the Sunshine Law is to “insure the right of its citizens to have notice of and the right to attend all meetings of agencies at which any agency business is discussed or acted upon as provided in this chapter.”

Melissa Melewsky, a media law attorney for the Pennsylvania NewsMedia Association, said the Sunshine Act offers members of the public the right to be present at all government meetings, with limited exceptions.

“In its most basic form, it’s to give citi-

See DIFFICULT, A7

WHAT IS THE SUNSHINE ACT?

In Pennsylvania, the Open Meetings Law, which is also known as the Sunshine Act, is intended to ensure local government business is open and transparent to the public.

Under the Sunshine Law, local government agencies may hold private meetings, or executive sessions, to discuss five matters: personnel, litigation, real estate acquisition, collective bargaining, or agency business that would be a violation of the law if disclosed, including investigations or judicial deliberations.

The Sunshine Act requires a government body disclose immediately before an executive session or immediately after an executive session why the agency held the private meeting.

Local agencies may have violated law

By JENNIFER MILLER and JIM RUNKLE
The Express

Two local government entities may have violated the state’s Open Meetings Law, also known as the Sunshine Act, related to how officials handled executive sessions in October.

The Express documented how local government handled executive sessions during October. During that time period, Keystone Central School Board and Wayne Township’s Board of Supervisors went into executive sessions during public meetings and the boards may have violated the Sunshine Act after potentially failing to offer proper explanation for the executive sessions, according to case law and a legal expert’s interpretation of the law.

The KCSB Board met at Bucktail

See AGENCIES, A5

No property tax next year in Wayne

Again, landfill revenue helps township, residents

By JIM RUNKLE
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McELHATTAN — The Wayne Township supervisors are poised to approve a \$1.9 million budget for 2014 at the board’s December meeting — and again, a healthy bank account and a steady income has allowed the township to approve a fiscal package without imposing any real estate taxes at all.

The board did the same thing last year ... and the year before that.

The primary reason: The township receives revenue from each ton of waste disposed of at the Wayne Township Landfill, operated by the Clinton County Solid Waste Authority.

Under the package tentatively approved this week by the supervisors, taxes other than real estate are expected to generate about \$296,000 in 2014.

The township has cash assets, including checking, savings and certificates of deposit, amounting to \$1.4 million, and accounts receivable estimated at \$90,000 at this time.

The \$1.9 million fiscal package includes \$250,000 from the host munici-

See PROPERTY, A7

Pa. Senate approves \$2.3B transport bill

By MARC LEVY
Associated Press

HARRISBURG — Pennsylvania state senators gave their approval Wednesday to a major transportation spending proposal that proponents hope will end a long journey to modernize travel in the state and stem its rising backlog of bridges, highways and mass transit agency facilities in need of repairs.

The Senate’s 43-7 vote on the \$2.3 billion bill came after Republicans angered Democrats by employing a rarely used parliamentary maneuver that kept them from stripping out a provision to reduce wages on some road projects.

Otherwise, the Senate has been a driving and bipartisan force behind the effort to respond to studies that for years have told lawmakers that Pennsylvania’s spending on its extensive highway system, aging bridges and deficit-strapped mass transit agencies was woefully inadequate.

The proposal, which is supported by Gov. Tom Corbett, could leave Pennsylvania with among the highest fuel taxes in the nation and higher motorist fees that will rise with inflation.

“Yes, to the citizens of Pennsylvania, we are going to be asking you to dig deeper into your pockets,” said Sen. John Wozniak of Cambria County, the ranking Democrat on the Transportation

See SENATE, A7

Millbrook Playhouse hires new artistic director

By JENNIFER MILLER
jmiller@lockhaven.com

MILL HALL — The new producing artistic director at Millbrook Playhouse has made his debut and is working on his first show, which will launch during the Christmas season.

The theater’s board hired David Leidhodt of New York City on Oct. 9 and he officially started working here Nov. 13.

Leidhodt, who grew up in Michigan, is no stranger to Millbrook. In 2004 and 2007 he served as a freelance director. During that time he became close with board member Jo Anne Hoberman, whom he describes as an “instant friend” and “mom-like figure.”

When he learned that Millbrook was search-

ing for an artistic director, he immediately put his name in for consideration.

“I basically emailed her and said stop looking for anyone else ... This is my time,” Leidhodt said. “You get a chance to get your fingers into everything, from directing to casting to picking up a hammer.”

Leidhodt said he is intrigued by Millbrook as it is a successful non-profit theater that is expanding at a time when theaters across the country are closing.

“It can be an economic source for a town,” he said. “I think it’s great that Millbrook, even in these economic times, is expanding and growing.”

Additionally, Leidhodt said he appreciates

the welcoming environment theater and community offer.

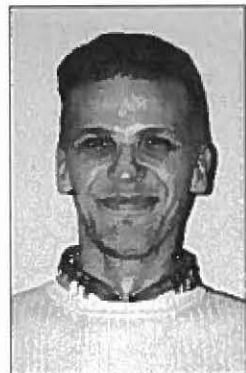
“The board is very supportive and they take a lot of pride in things, and you don’t find that everywhere ... Here you feel like family and that’s unique to Millbrook and Mill Hall,” he said.

Erla Mae Frederick, president of Millbrook, agrees the board works diligently to expand programs and shows. This will continue, she said.

“We are looking toward a great future,” she said.

The goal, she and Leidhodt said, is to offer

See MILLBROOK, A7



David Leidhodt

YOUR WEATHER

TODAY:
Partly Cloudy, 47
TOMORROW:
Showers, 52



Extended outlook • A8

DEATHS

Robert K. Smart
Harold L. Brungard
Irene R. Karstetter
Jaime Celeste VanOrden
Obituaries • A2

INDEX

Lottery Numbers A3
Opinions A4
Our History C7
Annies Mailbox C7
Weather AB
Sports B1-B4
Entertainment D1-D6
Dr. Roach C5
Comics C7
Classified CT-C3

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How transparent are our local governments?

Continued from A1

citizens hearing what they have to say, then come back and vote on the matter, all as part of the same meeting.

OUTSIDE THE DOORS

Mill Hall Borough Council was once notorious for holding lengthy closed-door sessions, especially when it was working on a Consent Order and Agreement with the state Department of Environmental Protection that mandated significant improvements to its sanitary sewage collection system, which was crumbling and allowing large amounts of stormwater to seep into pipes.

Council met twice a month in the heyday of its \$3 million sewer system upgrade.

The work to improve the borough's sewer system continues today, but now that a large portion of it has been accomplished, council's closed-door sessions have been fewer and briefer.

Council still holds them before the meetings are over, allowing for a potential vote on the issue the same night.

Mill Hall Council meets in Borough Hall, which is part offices, part garage. There is drinking-water available in the borough office/meeting room. A restroom is available, behind the council tables. It is a bit inconvenient, but not impossible, for a citizen to use the restroom during a meeting.

The public is truly inconvenienced when a closed-door session is held because citizens must leave the building. Borough Hall has no other public rooms. It consists of the borough office/meeting room, the garage area and the police department.

Citizens congregate in the parking lot until they run out of patience and leave, or until a council member opens the front door, the signal that they may go inside again.

If they want to stay warm in the winter, citizens must sit in their personal cars and run their engines.

According to Melissa Melewsky, media law counsel for the Pennsylvania NewsMedia Association (PNA). "The practice of holding executive sessions in the middle of regular meetings and forcing the public to leave creates a considerable barrier to public access and interferes with the intent of the law.

"Calling executive sessions in the middle of regular meetings for an indeterminate amount of time practically guarantees that members of the public won't be present when the meeting reconvenes," she stated in an email.

Mill Hall council does show respect for the public at the beginning of each meeting. Public comments are taken as soon as the meeting starts, a practice that allows people to speak their mind and leave shortly afterward, if they so choose.

Wayne and Porter townships also provide time for public comment as part of their agenda, and the Keystone Central School Board provides a sign-up sheet for anybody from the public who wishes to address the board, although the signature must appear at the beginning of the session and comments are limited to three minutes. There are occasions, however, when citizens have been provided an impromptu opportunity to speak, especially concerning critical issues.

Council gives citizens time to speak, and possibly leave, before it holds any executive sessions, and Borough Solicitor Paul Welch Jr. confirmed that this has been the practice.

The closed-door sessions are held during meetings, he said, because sometimes the issue involved can come up for a vote right away.

"Let me give an example: The borough wants to buy real estate but the council needs to discuss

some of the legal issues," he said. "They hold an executive session before they start voting on either old business or new business, get those answers they need ironed out, and then go ahead and deal with the purchase in the public portion of the meeting."

It might be suitable, he said, to hold an executive session at the conclusion of the meeting if the topic is something council does not plan to take action on right away.

Daniel D. Duck Jr. is council president and conducts the meetings. At a recent budget planning session for 2014, he voiced council's desire for a better building with more office space.

Mill Hall Council did not hold any closed-door sessions in October.

INSIDE BUT SHUT OUT

Lock Haven City Council held two closed-door sessions last month.

When an executive session is needed in Lock Haven, council's routine is to adjourn the voting portion of the public meeting first. This allows citizens to leave knowing they will not miss any additional votes. Council then remains behind for its confidential discussion and does not reconvene the public part of the meeting.

Once in a while, the city's decision-makers need to come back and vote after an executive session. This is announced before citizens must leave the room.

When a session is called in the middle of a meeting, citizens leave the council room and usually congregate in the waiting area near the police offices where there are folding chairs and a pew-type bench. They have access to drinking water and restrooms.

City Solicitor Lewis Steinberg said council and the city manager between them may decide when to hold a closed-door session, either at the end of the meeting or

in the middle of one.

Richard W. Marcinkevage is the city manager, and Mayor Richard P. Vilello Jr. conducts the meetings. It has been their choice to accommodate citizens by dealing with the full meeting agenda before closing the doors, whenever possible.

Council also holds its public comment period early. In addition, the mayor regularly changes the agenda's order and starts off the meeting with a specific issue or vote when he knows citizens have come to the meeting just to hear it addressed.

However, council continues in the old practice of announcing the topics of its executive sessions with just the one word: "personnel," "legal" or "property." At recent meetings, the Express has asked for a more complete explanation, and the mayor gives one.

The Pennsylvania Sunshine Act requires a reason be given for excluding the public, either right before or right after each closed-door session. According to the Commonwealth Court's interpretation, Melewsky reported, more than a one-word explanation must be given.

The explanation does not need to be elaborate, but it must include enough information that citizens can reasonably understand why they are being told to sit out.

"The Commonwealth Court has held that agencies must announce specific reasons, identifying real, discrete matters that are best addressed in private when announcing the justification for an executive session," she stated. "The public only gets one chance to understand why they were excluded by government officials from a discussion, and the agency has to give them enough information to determine whether that exclusion was appropriate.

"If they are only announcing 'personnel' or 'litigation,' they need to do more," according to Melewsky.

Steinberg agreed and said he will inform council to give better explanations without waiting to be asked.

Council may announce its personnel discussions with generalizations such as "an employee's job performance," Steinberg said. The employee involved should not be named, he said, because the matter could turn out to be nothing and council might decide not to do anything about it.

Welch said that in smaller municipalities where there is only one employee, the borough council or the board of township supervisors should not state "a person's job performance" as the reason for a confidential discussion. That would reveal more than the public needs to know, he said.

According to the Sunshine Act, closed discussions about legal cases must be announced with the names of the parties involved, the docket number of the case, and the court in which it is filed. Potential or threatened lawsuits that haven't been filed, though, may be identified in a general way, by the nature of the complaint.

"If council gets a letter from someone who intends to sue the municipality," Steinberg said, "it would be my opinion that if council informs the public they are having an executive session to discuss 'a potential claim for loss,' that would be sufficient."

City council is certainly not the only local government that offers one-word explanations for shutting its doors. Others — including Mill Hall Council — tend to do the same.

But, "the practice of announcing one-word justifications for executive sessions does not comply with the law," Melewsky stated.

She added, "The Sunshine Act is intended to foster public participation at public meetings, because government functions better when its citizens are informed and actively involved."

Local agencies may have violated Sunshine Law

Continued from A1

High School in Renovo on Oct. 3. During the board's regular public meeting, at 7:51 p.m., members went into executive session. The board did not offer any reason for the private meeting. The board then returned to the public meeting at 8:36 p.m., but still did not offer an explanation for the private meeting.

The board made a similar move Nov. 7 when members went into an executive session between their work session and regular meeting. The board did not announce a reason for the private meeting before or after the executive session that lasted one hour and 13 minutes.

Under the Sunshine Law, local government agencies may hold private meetings, or executive sessions, to discuss five matters: personnel, litigation, real estate acquisition, collective bargaining, or agency business that would be a violation of the law if disclosed, including investigations or judicial deliberations.

The Sunshine Act requires a government body disclose immediately before an executive session or immediately after an executive session why the agency held the private meeting.

Specifically, the law states, "The reason for holding the executive session must be announced at the open meeting occurring immediately prior or subsequent to the executive session. If the executive session is not announced for a future specific time, members of the agency shall be notified 24 hours in advance of the time of the convening of the meeting specifying the date, time, location and purpose of the executive session."

Only a judge can officially say whether a local agency violated the Sunshine Law. However, Melissa Melewsky, a media law attorney for the Pennsylvania NewsMedia Association, said it appears KCSB did not follow the law as it states an agency "must" announce the reason for an executive session.

"In this case, the school board didn't announce the reason before they went into executive session, so their only option was to announce the reason when they came back out into a public meeting," Melewsky said. "That's the interpretation that we believe is correct and that makes sense. That's just a common sense interpretation of the law. The people are sitting right in front of you, tell them what you did ... That's right in the statute, you must announce the reason for holding the executive session. It's not 'may,' it's not permissive, it's required."

KCSB Board President Jack Peters apologized for the oversight at the recent school board meetings saying it was an honest mistake. Additionally, he said he will be more diligent moving forward to announce the reason for an executive session.

"I apologize for any mistakes that we made, but if you look at it over a period of time, over a number of years ... I think we've followed the rules pretty carefully," Peters said. "We really try to go by the rules and talk about appropriate things in executive session and that will be my responsibility to be more specific without being too specific. We try to do it well." Additionally, Peters said the board encourages public participation at open

meetings and wishes more people would attend the meetings as well as voice their opinions and concerns during the public comment portion of the meetings. He also noted that the lengthy executive session on Nov. 7 was unusual and typically the private meetings last roughly 20 minutes or so.

KCSB Solicitor David Lindsay, the person who would provide advice to an agency regarding the Sunshine Act, was not present for the October or November meetings. Years ago, the board decided not to invite the solicitor to the meetings, unless a specific matter warranted their presence, as a cost-saving measure.

The Pennsylvania School Board Solicitors Association has a handbook for its members to utilize when it comes to open meetings. It advises boards to announce the purpose of executive sessions.

Specifically, "A Practical Guide to the Pennsylvania Sunshine Act," states "The reason for holding an executive session must be announced at the open meeting occurring immediately prior to or subsequent to the executive session. The Sunshine Act requires that even though it is in the public interest that certain matters be discussed privately, the public has a right to know what matter is being addressed in those sessions ... The reasons given must be specific, indicating a real, discrete matter that falls within one of the purposes (outlined by law) and is best addressed in private."

When Wayne Township supervisors announced an executive session at 7:20 p.m. Oct. 21, Township Solicitor Paul Welch used the phrase "pending and potential litigation" to justify the session. When a reporter objected to the description as too vague, and mentioned the law requires a level of specificity, including the name of the plaintiff or complainant and the defendant, and the case number if available, Welch just laughed as he walked into a nearby room.

He then joked that if the reporter knew an attorney who actually understood the myriad aspects of a complicated open meetings law, "you can have him talk to my attorney and have him explain it to me so I know."

A comment from the reporter that the board appeared to be breaking the law elicited no response, and five minutes later, when the board returned to the "open" segment of the meeting, no explanation was provided for what was discussed.

At another scheduled monthly meeting in November, the Wayne Township board entered an executive session behind closed doors again — but this time, offered an explanation. The board members said the matter related to a water runoff problem originating on private property and extending onto other land, and said the issue could result in legal action.

Melewsky said ignorance is not a defense for non-compliance with the law. "That's a solicitor's job - to make sure their elected officials, the board their serving, isn't breaking the law. It is incumbent upon elected officials to say (to their solicitor) if you don't know, bring us someone who does," Melewsky said. "It's not a complicated law. It's 15 sections long. Township and school codes, they

take up entire volumes. (The Sunshine Act) is quite brief. It's quite clear. The problem with the Sunshine Act is agencies ignore it with impunity ... The solicitor's job is to give advice ... You can't plead ignorance of the law. Ignorance is not an excuse."

Melewsky also noted that the state's Office of Open Records offers training on the Right to Know Law, or Open Records Law, as well as the Sunshine Act. "There are resources available," she said.

Other possible violations locally include: ■ Bellefonte Area School Board Vice President Jeff Steiner, who was running the Oct. 8 meeting in the president's absence, said, "The board will be meeting in executive session regarding a personnel matter." No further explanation was offered.

■ Bellefonte Borough Council went into executive session Oct. 21 to discuss "personnel" matters. Afterward, The Express inquired about the specific reason for the session, which Borough Manager Ralph Stewart offered. He explained that council discussed the vacancy of a part-time position within the police department and then returned to the public meeting later that evening to approve filling the position.

Melewsky said the Oct. 21 Wayne Township situation is an example of where officials may have violated the Sunshine Act as the Commonwealth Court ruled that a simple word like "litigation" is not sufficient when an agency is explaining the reason for a private meeting.

"Agencies are required to give a real reason that shows why a private discussion was appropriate," Melewsky said. "We have great guidance from the court about what has to happen in regards to litigation in executive sessions and it's quite clear."

Melewsky was referring to a case decided against the City of Reading more than a decade ago in the court of common pleas, one in which the city challenged the ruling to the Pennsylvania Commonwealth Court, which granted a permanent injunction favoring the newspaper and citing the city's failure at "specificity" in outlining the reasons for an executive session.

In Reading Eagle Co. vs. the City of Reading, the Commonwealth Court ruled that agencies' reasons for executive session "must be specific, indicating a real, discrete matter that is best addressed in private."

The court rejected the city's argument that citing the words of the statute, such as "litigation" or "personnel," is sufficient as a matter of law. Simply put, one-word explanations for an executive session do not comply with the Sunshine Act.

The court also confirmed that when an agency relies on the litigation exception, the agency must announce the names of the parties, the docket number of the case and the court in which a lawsuit is filed when discussing pending litigation.

When discussing threatened litigation, agencies must, at a minimum, announce the nature of the complaint. There is no guidance from the appellate courts on how much information is required when other types of executive sessions are announced, but it is clear that the reason

must be genuine and meaningful, and one the citizen can understand.

What happened in 1993 was this: A reporter from The Reading Eagle objected to the closed meeting because the litigation matters were not announced with specificity but the executive session was held anyway. Reading Eagle filed a complaint against City Council seeking a preliminary injunction; the complaint was later amended to request declaratory judgment and a permanent injunction. The city solicitor testified that the session was closed because of the possibility of lawsuits arising from the hiring practices and policies discussed.

The trial court granted declaratory judgment and an injunction, ordering that when announcing executive sessions, City Council must spell out in connection with existing litigation the names of the parties, the docket number of the case and the court in which it is filed.

In connection with identifiable complaints or threatened litigation, the trial court ordered that City Council must state the nature of the complaint, but not the identity of the complainant.

The city appealed to the Commonwealth Court, which said the Sunshine Act contains an acknowledgment that the public would be better served if some matters were privately discussed prior to a public resolution. Litigation is one of those issues, because if knowledge of litigation strategy, of the amount of settlement offers or of potential claims became public, it would damage the municipality's ability to settle or defend those matters.

However, the court said, the public has a right to know what matter is being addressed in those sessions.

"When a board chairman tells a citizen he may not hear the board discuss certain business, he is taking liberties with the rights of that citizen, and the reason given for this interference must be genuine and meaningful, and one the citizen can understand," the court said. "To permit generalized fluff would frustrate the very purpose of the Act."

Because of that, a permanent injunction was granted, requiring the city in the future to specify the nature of the litigation according to the law and its ruling.

The actions taken in Wayne Township contrast to the actions taken earlier in the month at a meeting of the Porter Township Board of Supervisors.

Township Solicitor John Boileau said the closed-door session involved pending litigation, but went further to describe two issues before the board. One involved whether the board intended action against a resident in connection with complaints about a barking dog, and the other involved potential litigation against a property applicant who did not comply with rules governing site development plans.

Following the closed door session, and after returning to the open meeting, the board and solicitor went back on the public record by saying the legal issues governing the barking dog were rendered moot. The dog had since met its demise. The supervisors also decided to try to resolve matters informally by talking to the property applicant about his site development plans.

House OKs bills to speed oil, gas drilling

By MATTHEW DALY
Associated Press

WASHINGTON — The House approved two bills Wednesday aimed at speeding up drilling for oil and natural gas on public lands.

The measures were among three energy bills the House is considering this week as Republicans who control the chamber push to expand an oil and gas boom that's lowered prices and led the U.S. to produce more oil last month than it imported from abroad.

One of the bills approved Wednesday would set strict deadlines for federal approval of oil and gas permits and expand areas open to production. Another would restrict the Interior Department from enforcing proposed rules to regulate hydraulic frac-

turing, or fracking, on public lands. A third bill, set for approval Thursday, would streamline permitting for natural gas pipelines. Supporters say the bills are needed to ensure that a drilling boom taking place on state and private lands extends to millions of acres, mostly in the West, under federal control.

President Barack Obama has promised to veto the bills, saying they are unnecessary and run counter to protections put in place for oil and gas drilling.

Rep. Doug Lamborn, R-Colo., who sponsored the bill to speed up permitting, said the current energy boom has mainly occurred on state and private lands, including the Bakken formation in North Dakota and Montana and

the Marcellus Shale region centered in Pennsylvania, Ohio and West Virginia. Drilling also is booming in traditional production states such as Texas, Oklahoma and Louisiana.

"The only reason we haven't seen that same dynamic growth on federal lands is because of excess regulations," Lamborn said.

Lamborn's bill would deem a drilling application approved if no decision is made within 60 days, set a minimum threshold for lands leased by the Bureau of Land Management and charge a \$5,000 fee to groups that protest lease permits. It also would open up Alaska's Arctic National Wildlife Refuge to oil and gas exploration.

The House approved the measure, 228-192.

The House also approved a separate bill that would block the Interior Department from enforcing a proposed rule on hydraulic fracturing on federal lands in states where drilling regulations are already in place. The bill, sponsored by Rep. Bill Flores, R-Texas, was approved 235-187.

Hydraulic fracturing, also called fracking, involves pumping huge volumes of water, sand and chemicals underground to split open rocks to allow oil and gas to flow. Improved technology has allowed energy companies to gain access to huge stores of natural gas underneath states from Wyoming to New York but has raised widespread concerns that it might lead to groundwater contamination and even earthquakes.

Lawmakers outline plan to shrink PSU board

By MARK SCOLFARO
Associated Press

HARRISBURG — A new legislative proposal outlined Wednesday would shrink Penn State's board from 30 to 23 voting members, a change designed to make the board work more efficiently and create a more inclusive system of doing business.

The sponsor, Sen. John Yudichak, said trustees would also be more accountable to the public if the board was reduced to eight elected alumni, five gubernatorial appointees, five elected by the agricultural community and five people from

business and industry selected by the trustees.

Yudichak, D-Luzerne, called the approach "the art of the possible" and predicted it would improve the school's governance structure without going too far.

"I don't think it's the place of the General Assembly to micromanage Penn State or the state-related universities," Yudichak said.

A university spokeswoman released a statement saying the school welcomed Yudichak's support and interest. Yudichak was joined at a Capitol news conference on the topic by fellow alumnus Sen. Jake Coman, a Republican who repre-

sents the State College region where Penn State's main campus is located.

Penn State is currently reviewing its internal oversight and procedures and is considering hiring a consultant to help with that process.

Among the changes it has already adopted are removing the university president and state governor as voting trustees, establishing term limits for all trustees, posting meeting information five days ahead of time, adding public comment periods and requiring half the trustees — up from 13 — to be in attendance in order for a meeting to be held.

Pennsylvania Senate approves transport bill

Continued from A1

Committee. "We are not happy about it, but we have the responsibility to govern and to make difficult decisions. It has been almost 15 years since any gasoline taxes in Pennsylvania have been raised. I don't think there is any place in the private sector that has not raised their prices in 15 years."

However, Wozniak and other lawmakers also said the greater good is at stake, including tens of thousands of jobs, the safety of people on the roads and Pennsylvania's economic compet-

itiveness. They warned the cost of doing nothing would be too damaging.

"I don't know of a successful business in this country that didn't invest in themselves at some point in time," said Senate Appropriations Committee Chairman Jake Corman, R-Centre. "This is a great investment in ourselves."

The Senate passed a similar bill in June — the wage provision was the biggest difference — but the more conservative House had struggled to respond until this week. With an election next year, the tax increase could be publicly

unpopular, but the money would begin funding projects in the spring and potentially provide a visible example of the results.

Approval is expected Thursday in the House, where conservatives objected that it would be the second-largest tax increase in state history. The chamber signaled its support for the measure in a 106-95 preliminary vote on Tuesday under considerable pressure from Corbett, the Senate and business groups and labor unions that support transportation legislation.

The proposal would raise gasoline taxes and registration, licens-

ing and other motorist fees to spend \$2.3 billion a year more on transportation, an increase of about 40 percent over the amount the Pennsylvania Department of Transportation currently spends. A small slice of the money would go to airports, ports, railways and walking and cycling routes.

It would allow up to \$60 million per year in capital grants to help mass transit agencies convert fleet vehicles to compressed natural gas or another alternative fuel. Meanwhile, tens of millions of dollars more would go toward transportation-related discre-

tionary accounts controlled by lawmakers and the transportation secretary.

In a reference to that money, Sen. Jim Ferlo, D-Allegheny, said the bill carries \$50 million a year in WAMs — short for "walking-around money," a term for grants that have existed in one form or another for at least a couple of decades and are built around the concept of providing lawmakers with a pot of money to spend as they see fit.

"This bill has WAMs," Ferlo said. "Republicans don't like to admit it. They refer to it as discretionary spending."

No property tax slated next year in Wayne Twp.

Continued from A1

pality fee from the Solid Waste Authority at McElhattan. Other revenues, including interest, rents, royalties and intergovernment revenues, amount to \$253,500, and funding from Liquid Fuels, road tumbuck programs and other similar allocations amount to \$71,495.

The township anticipates assets less liabilities at \$1.34 million on Jan. 1, and total expenses of \$1.55 million versus total revenues of \$620,000.

Expenses include: General government, \$165,250; insurance, \$30,600; fire company and public safety \$30,600; highways, roads and streets, \$80,000; equipment maintenance and fuel, \$20,000; street lighting,

\$27,000; recreation, \$300,000; professional and attorney services, \$65,000; and employee wages and benefits, \$93,000.

The board also anticipates a couple of capital projects, including the purchase of a new truck for \$170,000 and a large scale stormwater improvement project for Shoemaker Road, at an anticipated expense of \$500,000.

Law intended for transparency difficult to enforce

Continued from A1

zens a voice in their government and allows them to hold their government officials accountable," Melewsky said. "It is vital to the enhancement and functioning of the democratic process."

The Pennsylvania NewsMedia Association receives roughly 2,000 calls a year, mostly from news reporters, regarding possible violations of the Sunshine Law or Open Records Law. Melewsky said roughly half of the calls are related to access to government meetings.

"We hear about it from (reporters) from all over the state. Sometimes we hear from citizens who are frustrated and don't know where to turn ... It's certainly a problem," Melewsky said. "One of the problems is that the law is rarely enforced. It's very difficult to enforce violations of the Sunshine Law."

Melewsky said she is only aware of two instances in eight years where a government agency was penalized for a Sunshine Law violation.

"There is no administrative agency that oversees the law. It is a citizen enforced law. It is very dif-

icult to enforce the law. The courts have basically allowed agencies a get out of jail free card," Melewsky said.

One of the two instances in recent years in which a government agency was penalized for a Sunshine Law violation occurred in October. A district judge in Wayne County found that the entire Borough Council in Honesdale violated the Sunshine Law by holding an illegal, secret meeting in August. The court fined each member \$100 and court costs.

While the state legislature felt it necessary to guarantee public rights to government meetings, only a judge can say if a violation of the law occurred. A citizen or news media member can file a private criminal complaint with the local District Attorney's office and then the DA would determine whether criminal charges would be pursued, and if so, a magisterial district judge would determine guilt of innocence.

Any member of an agency that is convicted for knowingly violating the law can face a fine of \$100 to \$1,000 for a first offense. For any subsequent offense, the party must pay the costs related

to prosecution along with a \$500 to \$2,000 fine. The agency, such as a city or borough, cannot make a payment on behalf of the person in violation.

If a court determines that an agency violated the law, the violator must pay at least a portion of the prevailing party's attorney and litigation fees. If the court finds that the legal challenge was frivolous or had no substantial justification, the court then can order the filing party to pay at least a portion of the defendant's legal fees.

A legal challenge must be filed within 30 days of the meeting or within 30 days of the discovery of any action that occurred at a meeting that was not open to the public "provided that, in the case of a meeting which was not open, no legal challenge may be commenced more than one year from the date of said meeting."

The law also states that any person has the right to raise an objection at any time to a perceived violation of the law at any government meeting.

Under the Sunshine Law, local government agencies may hold private meetings, or executive sessions, to discuss five matters: per-

sonnel, litigation, real estate acquisition, collective bargaining, or agency business that would be a violation of the law if disclosed, including investigations or judicial deliberations. The law requires a government body to disclose immediately before an executive session or immediately after an executive session a specific reason for the private meeting.

The law also requires agencies to provide "reasonable opportunity" at each advertised regular meeting or special meeting for residents and taxpayers to comment about matters before the agency. If the agency determines there is not adequate time for both residents and taxpayers to comment on the matter, the agency is required to defer the comment period until the next regular meeting or schedule a special meeting for the matter.

Such a situation recently occurred before Bellefonte Borough Council where a meeting became too crowded and exceeded the maximum occupancy of Council Chambers. Initially, council planned to go ahead with the meeting

and instructed some members of the public to leave the meeting room, therefore eliminating their opportunity to comment on the matters before the board.

However, after objections from the public,

council agreed to schedule a special meeting at a larger venue to allow all interested parties to comment on the matter in question, which was the pending demolition of a historical building in downtown Bellefonte.

Thank you Porter Township residents who came out to vote for me on Nov. 5 as supervisor.

*Thank You,
Nevin Courter*

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Millbrook Playhouse hires new artistic director

Continued from A1

more shows, ultimately year-round. And that's no easy task. Royalties alone for summer shows costs \$25,000. Throw in pay for actors and staff, and the playhouse faces a hefty budget. That's why the non-profit relies so heavily on donations.

"We're always looking for people to get involved through buying tickets, making donations or volunteering," Leidhardt said.

Leidhardt's first show as artistic director will be the holiday comedy "A Tuna Christmas" in which two male actors play dozens of roles. It's a sequel to "Greater Tuna." Directed by Lawrence Leshner, the

show will star Travis Mitchell and Matt Harris.

"It's lots of fun. It's a big, over-the-top comedy, so it's fun for the family," Leidhardt said.

The family-friendly show will be performed at 7:30 p.m. Dec. 4 to 7 at the Elks lodge in Lock Haven. It will be cabaret-style with a cash bar. Tickets are \$20 for adults and \$12 for students. Groups of 10 or more will be seated together at a table.

"It's a night of belly laughter that will have you rolling on the floor," Frederick said. "It's a great holiday time to get together with the office staff and come out and party."

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