

Open government won't hold back our progress

One city councilman apparently chafes under the restrictions of the Kansas Open Meetings Act.

In a letter published in the March 5 edition of *The Oberlin Herald*, he calls it the "Frozen Government Act," implying that nothing can get done and no honest discussion may occur without some closed-door meetings.

That's not an uncommon view, but in a democracy, we'd suggest, it's a dangerous way of thinking. What it amounts to is an argument that you can't do the people's business while we're watching.

Since this is the national observance of Sunshine Week, dedicated to the principle of open government, it might be a good time to examine these claims.

Having to discuss city or county or school business in public can be a burden, as the Oberlin School Board found out when it had to select a new member and learned that none of the discussions could be in private. Like a grade-school election, where no one wants to offend anyone, the members voted by paper ballot and there was little comparative discussion of the merits of a fine crop of candidates.

In the end, the new member was chosen by a coin flip. Given the quality of the group, it might have ended that way in a closed session, but the board could then have emerged with a "unanimous" verdict after the "debate."

It can be hard, having to speak up for yourself when people involved are listening.

One of Councilman Anderson's complaints is that a couple of members can't just get together and, say, inspect the sidewalks downtown or meet with a Decatur Tomorrow committee.

That's because the law defines a meeting as "a majority of a quorum" of a public body, the minimum number needed to decide an issue. On a five-member board like the City Council or a three-member groups like the County Commission, two members can make decisions. That means no two can talk public business without calling a meeting and notifying "the press," as Dr. Anderson puts it.

The principle of the law is pretty clear, though, that no rump coalition of two or three

should gather and decide what will happen at the "real" meetings. The collateral damage does make it harder to look at the sidewalks,

yes, but you can do that if you announce the "meeting" before it happens.

Open meetings serve a lot of purposes:

They force public officials to talk in the open about issues. Behind closed doors, perhaps some would say what they are thinking, things that they fear would offend voters or get them booted out of office.

Is enforcing civil behavior a bad thing?

Open meetings prevent a small group from meeting to guide and rule debate, at least in theory. Who's to say it doesn't happen.

Does anyone think it should happen?

With open meetings, it takes courage to stand up for your convictions. Many public officials manage to find it.

Should we encourage those who do not?

Finally, Dr. Anderson seems to suborn us all to help him find ways to deal with this law.

Supposing we, as a newspaper, agreed?

This law was not written to protect "the media." The Legislature doesn't much like the press, though many members recognize the role that we play.

It was created for, and often enforced by, the people, who might be slighted by closed-door government and the shady deals it encourages. Reporters are only representatives of their readers, after all.

There are ways to get things done. Two council members can "meet" to inspect the sidewalks or talk to a civic group by simply announcing that they are going to do so. Maybe they'll have to wait an hour, or a day, but it can be done.

Open government can be inconvenient, but it doesn't have to be frozen.

Democracy involves a messy process. Done right, we think the result is worth it.

Public agencies in this county have a good record of following this law, largely because of the leadership of County Attorney Steve Hirsch.

In the citizens' interest, we urge all our public officials to keep it up, and to improve on their communication and openness with voters and taxpayers. — *Steve Haynes*



Airport really has some fans

The first thing that comes up, when you mention Oberlin in Topeka or in Washington, is the runway extension project for the airport.

Rep. Jerry Moran asked us how it was going when we visited with him last week during the National Newspaper Association's annual trek to Capitol Hill. It was pretty much the first thing he asked about.

The runway plan has captured the imagination of state and federal officials in a way few small-town ideas can. It just seems to appeal to them that a community can, first attract a company with the potential of Bus and Coach International, and second, have the audacity to tackle a project of this size.

It remains to be seen how things will shake out — it'll take years to put together a package to raise \$4 million to \$5 million and actually build a 5,000- to 7,000-foot runway. No one knows if the state or federal government even will have the money by then, and Lord knows, neither Oberlin nor Decatur County has that kind of dough laying around.

But the announcement last week by state officials that the Kansas Department of Transportation has made an advance commitment for \$1 million for the runway is a pretty good indication of where things are headed.

Decatur County has put \$50,000 a year in its budget and the city has some credit built up with the Federal Aviation Administration. If the agency doesn't have the money,



Along the Sappa

By Steve Haynes
s.haynes@nwkans.com

Mr. Moran has mentioned getting an "earmark" in an appropriations bill to pay for the federal share. That might happen, though the congressman is no fan of earmarks.

The story is the same in Topeka. Ed Young, director of aviation in the Transportation Department always asks about the runway. So does his boss, Secretary Deb Miller.

It's obvious that her boss, Gov. Kathleen Sebelius, feels the same way. Her office makes no secret of its interest in the runway. And when the governor's office is interested, then so is the rest of the state bureaucracy.

Legislators likewise have latched onto the project. When Oberlin officials invited western Kansas members to dinner last month, they not only praised the plan, they suggested that we start talking to eastern Kansas members about it, too.

All of that leaves the runway far from built. It won't go any farther than Bus and Coach, so continued success for the firm is vital. Rep. Moran said he drove down to Jennings last year just to see if the

plant was for real, and came away convinced.

Backers have been talking not only to state and federal officials and legislators, but to the state National Guard, about using the runway.

Bus and Coach officials say they want to fly their executives and customers in to town and fly parts and the like out. They say business jets are a must. National Guard planes could use the field for training in this area, possibly opening the way for a training facility here.

There's talk about recruiting more airport-intensive businesses to build around the runway, but that's a long ways off. The runway plans need to be finished, the money found and the concrete poured before anyone else will move in. Even then, industrial recruiting is an iffy proposition.

And there's always the possibility the new strip could wind up being a "runway to nowhere," a project with more backers than cause. So far, that's not a problem.

Money is, but it might just come.

Sunshine laws open up states

By ROBERT J. FREEMAN
New York Committee
on Open Government

Freedom of information laws differ from one state to another, and now, from one country another, but there are likely similarities that enable us to offer a few general observations.

I deal with the New York Freedom of Information Law (known widely here as "the law"), and I'm troubled by a variety of common beliefs that have grown into myths which simply are not true. The problem in part is that many Americans tend to follow like sheep, and when we hear the same kind of comments over and over again, too many of us begin to believe them.

One of my continuing goals involves waking up the public, government officials, and yes, even reporters, and trying to ensure that they avoid falling into the traps created by myths relating to government's ability to keep secrets.

Although my experience involves the law in New York, my guess is that much of the following would apply in a variety of jurisdictions.

Myth: Characterizing a record as "draft," a "work in progress" or "unofficial" enables a government agency to automatically deny access to the record.

Reality: The law pertains to all government records and defines the term "record" to include any information, in any form, kept, held, filed, produced or reproduced by, with or for a government agency.

Often drafts include statistical and factual information that is available to the public. When a record comes into the possession of an agency, whether it is deemed "official" or "accepted" is irrelevant; it is subject to rights conferred by the law. Also, minutes of meetings must be made available, even if they haven't been "approved."

Myth: Stamping or marking a record "confidential" enables the government to withhold it.

Reality: Under the New York law, marking or agreeing to keep a record "confidential" is meaningless. The law says that all government records are accessible, unless they fall under exceptions listed in



an exemption for matters that fall under "attorney-client privilege.")

Myth: When an incident is under investigation, law enforcement officials cannot disclose anything about it.

Reality: There is nothing that precludes these officials from speaking, and they do when they feel it is to their advantage. The law usually requires that details relating to the incident be made public,

unless disclosure would interfere with an investigation or deprive someone of the right to a fair trial, for example.

Remember: When you hear or read statements from a government official indicating that the matter can't be disclosed because it's a personnel matter, it's in litigation, it's under investigation, or because it's confidential, often what they're really saying is that they don't want to talk about it, even though they can, they should, or in some circumstances, they must.

Mr. Freeman is executive director of the New York State Committee on Open Government in Albany.

From the Bible

And the whole multitude of them arose, and led him unto Pilate.

And they began to accuse him, saying, We found this fellow perverting the nation, and forbidding to give tribute to Caesar, saying that he himself is Christ a King.

And Pilate asked him, saying, Art thou the King of the Jews? And he answered him and said, Thou sayest it.

Then said Pilate to the chief priests and to the people, I find no fault in this man.

The Gospel According to St. Luke, 23:1-4.

She's eating her way to Mexico

Pardon me if there is enchilada sauce spilled on this, but I'm writing between courses of huevos rancheros (eggs with salsa) and chilis rellenos (grilled poblano peppers with queso, or cheese) on a flour tortilla.

Yes, we are back to El Paso and Juarez and happily eating our way through the cities.

I'm writing this Sunday morning in a little Mexican restaurant we found Saturday on our first day in town. That's why we came back — it was so good.

We spent the afternoon in Juarez, trying to locate some of the homes we have helped build, especially the



Out Back

By Carolyn Sue Kelley-Plotts
cplotts@nwkans.com

first one. After nine years, though, the landmarks had changed and we never found the home of Eduardo and Marta. We did find a burrito stand, so it was all good.

Church starts in a few minutes, so I will keep this short. Besides, the news will be on the other side of the

next few days.

Friends and neighbors are caring for the cats and chickens in our absence.

So, until we're back stateside, it's "hasta la vista," (until we see you again).

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170 S. Penn Ave., Oberlin, Kan. 67749-2243

Phone: (785) 475-2206 Fax (785) 475-2800

E-mail: oberlinherald@nwkans.com

Nor'West Newspapers

STAFF

Steve Haynes editor
Kimberly Davis managing editor
Mary Lou Olson society editor
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