

March: Openness group awards cheers and jeers

Written by By Bill Lueders

As part of national Sunshine Week (sunshineweek.org), March 11-17, the Wisconsin Freedom of Information Council is for the first time giving awards in recognition of people and events that shaped the fortunes of open government in Wisconsin in 2006, for better or worse.

The honorees are:

- Political Openness Advocate of the Year (the "Popee"): Peg Lautenschlager. Throughout her four years as Wisconsin's attorney general, Lautenschlager championed the public's right to know. Charged with interpreting and enforcing the state's open records and open meetings laws, she issued good advice and took courageous stands. In 2006, she filed a complaint against a state lawmaker for foot-dragging on a records request, among other actions involving public officials. And in an important case known as *Buswell v. Tomah*, Lautenschlager urged the state Supreme Court to affirm the need for public bodies to provide specific meeting agendas.

- Citizen Openness Advocates of the Year (the "Copee"): The Five Rivers Five. This ad hoc group tried to crash a February 2006 closed meeting between Oshkosh city officials and a developer, saying it violated the state's Open Meetings Law. The five - Tony Palmeri, Pat Gentile, Gary Jepson, Dan Rylance and Rachel Aiken - were turned away. But the Attorney General's Office later deemed that a portion of the meeting was improperly closed. Credit goes also to city Councilor Paul Esslinger, who objected to the meeting, and Cheryl Hentz, who helped draft a complaint to the AG's office.

- Media Openness Advocate of the Year (the "Mopee"): The Lakeland Times. This twice-weekly paper published in Minocqua, with a circulation of under 11,000 and staff of 20, has emerged as one of the state's leading defenders of openness and accountability. In 2006, it won the first stage of a lawsuit, also involving the Milwaukee Journal Sentinel, challenging claims that new labor pacts require state agencies to withhold the names of public employees. And it won final judgment against a state agency that tried to suppress records of a disciplinary probe. The records were released, and the paper stands to recover much of its legal fees.

- Open Records Scoop of the Year (the "Scoop"): Patrick Marley and Stacy Forster, the Milwaukee Journal Sentinel. Last fall, some state lawmakers waxed indignant at reports that 80% of UW faculty claimed no sick leave in 2005, adding to a nest-egg they can later cash in for health care benefits. These enterprising reporters, using the Open Records Law, found that lawmakers were doing the same thing. In fact, over the last four years sick days were claimed by only two lawmakers - not including one who missed three months of work due to a shattered pelvis. She said she was unaware of the sick-leave program. Not anymore.

- No Friend of Openness Award (the "Nopee"): Tie: The Wisconsin Legislature and Weyauwega-Fremont school board. The state Legislature has exempted itself from records retention statutes, allowing lawmakers charged with crimes to obliterate past e-mails. Its members continue to caucus in secret and, in 2006, got into hot water for casting votes outside of public view. And many lawmakers resolutely defend their right to share bill drafts with special interests but not the public. All in all, a dismal record. Meanwhile, the Weyauwega-Fremont school board charged a newspaper \$430 for the two hours its attorney spent blacking out parts

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of records, then refused to honor subsequent requests until this bill was paid. The paper sued, and the board recently paid \$10,000 to settle, besides its own taxpayer-funded legal costs. The board's president, Steve Loehrke, also ejected a board member from a closed meeting for taking notes, spurring another lawsuit that led to a \$300 fine, plus legal fees.

- Dumbest Open Government Ruling (the "Dopee"): 1st District Court of Appeals. This court, in addressing a discovery dispute between parties to a civil suit (Sands vs. Whitnall), construed the Open Meetings Law to bar disclosure of anything said during a closed meeting, regardless of whether the reasons for closure still apply. This essentially immunized government bodies from any inquiry, at any time, into their conduct at closed meetings. A petition for review is now before the state Supreme Court - giving that body a chance to make next year's award list, for better or worse.

Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council (www.wisfoic.org), dedicated to open meetings and open records. Bill Lueders is the group's president.