

Council's actions questioned

Keith Eddings

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WHITE PLAINS — A Common Council vote Tuesday to eject the public, media and dozens of city union members from part of the debate over Mayor Joseph Delfino's budget proposal violated New York's Open Meetings Law, the director of the state agency that oversees the law said yesterday.

Over an objection from The Journal News, the council voted to adjourn behind closed doors to discuss which of the city's 971 jobs should be cut to help fill a \$12.5 million deficit in the new budget. The newspaper argued that the law allows councils to meet privately to discuss specific employees -- most typically involving their job performance -- but does not allow them to close their doors to discuss more general employment issues involving positions and not individuals.

"Based on the language of the law, a discussion involving positions that may be eliminated due to budget issues must be discussed in public, period," said Robert Freeman, executive director of the Committee on Open Government. "Only when the issue focuses on an employee and that person's performance would an executive session be properly held."

Delfino said the council called Corporation Counsel Edward Dunphy from the executive session. He said Dunphy said the move was legal.

Councilwoman Rita Malmud, who made the motion to adjourn to executive session, said it was justified because job performance might have been considered in deciding which positions to cut.

About 40 city firefighters and police officers, who have been working without a contract for about a year, attended the budget session to monitor the deliberations. Most left and did not return when the council adjourned to a separate conference room.



May 14, 2009

State: White Plains Common Council's executive session on the budget was illegal

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SI-2

OPINION

7B | FRIDAY, May 15, 2009

The Journal News

Serving the Lower Hudson Valley since 1850

Michael J. Fisch, President and Publisher

Henry Freeman, Editor and Vice President/News

Herb Pinder, Community Conversation and Opinion Page Editor, 914-694-5031

OUR VIEWS

Wrong advice

Government lawyers and municipal officials, kindly write this phone number down and keep it handy: 518-474-2518. At some future time, the advice on the other end of that line might help you learn the law and at once safeguard the public's right to know about public business. It might also spare you from sounding like a public servant who is not only cavalier about the public's right to know but also blissfully ignorant.

The phone number is the link to the state Committee on Open Government, which is responsible for overseeing and dispensing advice on the state's freedom of information, open meetings and personal privacy protection laws. The counsel is typically expert on those transparency matters — apparently more reliable than that to be had from your garden variety municipal lawyers. We got another glimpse of that earlier this week, when the White Plains Common Council had the audacity to kick out the public, press and scores of union

representatives so the elected officials could discuss possible job cuts in secret. The city faces a \$12.5 million budget deficit, so the focus is on which positions to jettison in a payroll of some 970 workers. That's something the public would care about, right?

During this season of economic meltdown, the vast majority of school boards and local governments have managed to hold such discussions in plain view — because that's what the law dictates. Yet the White Plains officials on Tuesday somehow supposed that their circumstances were unique. Councilwoman Rita Malmud, who made the motion to adjourn to executive session, said the action was justified because job performance might have been considered in deciding which positions to cut. Mayor Joseph Delfino said that Corporation Counsel Edward Dunphy had advised the move



Joseph Delfino



Rita Malmud was legal.

Indeed, the law says that individual job performance is fodder for closed-door discussion, but to close a public meeting about possible job cuts because of the mere prospect of individualized discussion sounds dubious — the kind of advice public officials run with if they want to shut people up or out. In this case, most of the roughly 40 police and firefighters attending the meeting went home when the council adjourned to executive session, staff writer Keith Eddings reported. The closed-door session was reminiscent of another wrongheaded executive session last month by the Patterson Town Board. Those officials met, in private and without notice, to discuss town finances, based on local counsel's advice that they could do so "just to receive information." No, no, no.

"Based on the language of the law, a discussion involving positions that may be eliminated due to budget issues must be discussed in public, period," Executive Director Robert Freeman of the Committee on Open Government told Eddings, in a conversation that White Plains officials could have initiated on their own. "Only when the issue focuses on an employee and that person's performance would an executive session be properly held." Once more, the phone number is 518-474-2518.

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Wrong advice

MAY 15, 2009

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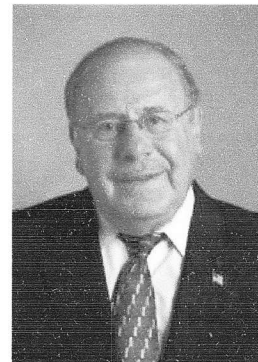
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A Journal News editorial



Joseph Delfino



Rita Malmud

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RthrBHisoriclyCrt wrote:

Has anyone called them concerning the Ramapo School District barring cameras from the upcoming school elections (even though there are NO State laws barring cameras)? So much for "open government"

Have YOU LOHUD. How about taking your own advice LOHUD and have some journalistic integrity and be a watchdog for the community? Why are you LOHUD and the Journal News in particular being complicit as a junta of a school board tramples freedom of the press and freedom on information?

5/15/2009 3:26:42 PM

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dondebar wrote:

Dei Fino and the council could simply say in the public session that "job performance will be a factor in making the decisions within the context of these other issues" and naming those matters which are appropriate for public discussion, such as policy objectives which would give priority to certain jobs over others. The preference in White Plains, however, is for secrecy, and you can see the result both in your skyline and in your tax bill.

5/15/2009 7:52:59 AM

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Client9 wrote:

"Based on the language of the law, a discussion involving positions that may be eliminated due to budget issues must be discussed in public, period." Executive Director Robert Freeman of the Committee on Open Government told Eddings, in a conversation that White Plains officials could have initiated on their own."

Perhaps TJN can publish Freeman's cellphone number too, since I doubt he would be answering that given Albany number if his opinion was needed at 8pm on a weeknight. Sounds like a 9 to 5 job to me.

5/15/2009 7:38:48 AM

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