

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR OSCEOLA COUNTY, FLORIDA

CASE NO.: CI92-0045

SENTINEL COMMUNICATIONS COMPANY  
and SUSAN JACOBSON,

Plaintiffs,

VS.

SCHOOL BOARD OF OSCEOLA COUNTY;  
JOSEPHINE CHEN; PETE EDWARDS; MIKE  
HARFORD; JOE SHIRAH; and TIM WILLIAMS,  
individually and as members of the  
School Board of Osceola County; and  
CHRIS COLOMBO, as Superintendent and  
Custodian of Records for the School  
Board of Osceola County,

Defendants.

APR 6 - 1992

Appeal Filed  
4/8/92

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PERMANENT INJUNCTION

Petitioners, Sentinel Communications Co. and Susan Jacobson filed this action seeking injunctive relief against the Respondents, School Board of Osceola County, individual board members and the school superintendent, in two separate counts. Count I alleges a violation of F.S. 286.011 (Government in the Sunshine Act), and Count II seeks an order compelling the release of certain documents as public records pursuant to F.S. 119.11.

At a hearing on January 31, 1992 it was established that the records requested in Count II were public records as defined by Florida law and had been released to the petitioners. The Court also found that the delay in releasing the records following the initial demand was not unreasonable in light of the complexity of the

issues involved and the unique circumstances of the case. Count II is hereby dismissed with prejudice.

The relevant facts pertaining to the issues raised in Count I are not materially in dispute. The Assistant Superintendent of Schools for Personnel and Administrative Services scheduled a series of meetings between individual School Board members and all four assistant superintendents. Each member was given a specific time to meet with the "Cabinet" and advised that the Superintendent would meet with them immediately following. The memorandum scheduling the meetings, advised the Board members that the purpose of the meeting was to "receive your input in developing our 1992/1993 Administrative Organization Chart". It is undisputed that the meetings involved the creation or elimination of staff positions and the overall administrative structure of the school system. Petitioner, Susan Jacobson, in her capacity as a reporter for Petitioner, Sentinel Communications Co., requested access to the meetings and was denied.

The School Board has correctly maintained that not all meetings between an individual Board Member and members of the administrative staff are required to be open meetings under Florida's Government in the Sunshine Law. The School Board also maintains, less persuasively, that the meetings were of an informal nature and that no official acts were taken or contemplated.

The memorandum scheduling the meetings (Petitioners' Ex.1) and other evidence, clearly establishes that the purpose of the meetings was to present and consider staff recommendations concerning the administrative structure of the school system and to

privately address any objections or concerns the Board Members may have. The scheduled follow-up meetings with the Superintendent further buttress the argument that the meetings were intended to refine and define the Board's position on matters covered by the Sunshine Law. As such they were an integral part of the decision making process and not properly conducted behind closed doors.

The Court is ordinarily reluctant to utilize its equitable power to intervene in the functioning of the executive branch of government. This is particularly true where the relief sought is an order requiring a government agency to comply with an existing law. It is generally presumed that no such order is necessary. Indeed, at the close of the hearing on January 31, 1992, it was hoped that the full discussion of the applicable law as it applies to these facts would result in an amicable resolution of these issues and voluntary compliance with the Sunshine Law. Unfortunately, no such agreement was reached as the respondents are apparently still of the opinion that the closed door meetings in question were appropriate. Additionally,

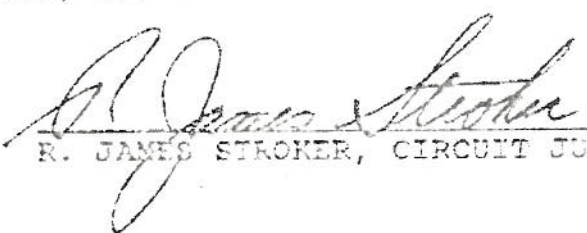
there is evidence that this violation may not be an isolated incident. The State Attorney for the Ninth Judicial Circuit conducted an investigation in 1991 and found what he believed to be numerous Sunshine Law violations by the Osceola County School Board. Under these circumstances the Court is compelled to grant the relief requested in Count I of the Complaint and issue an injunction.

NOW THEREFORE, it is hereby ORDERED and ADJUDGED, that the Respondents, School Board of Osceola County; Josephine Chen; Pete

Edwards; Mike Harford; Joe Shirah; Tim Williams; and Chris Columbo as superintendent, are PERMANENTLY ENJOINED from holding any further closed door meetings to formulate Board policy, discuss matters where Board action is contemplated, or otherwise conduct the public's business. This decision shall not be construed to prohibit individual Board members from meeting privately with staff or the superintendent for informational purposes on an ad-hoc basis. It shall be construed to prohibit the scheduling of a series of such meetings which concern a specific agenda. Its purpose is to ensure that the Board's deliberations and decision making processes are open to the public.

It is further Ordered and Adjudged that Petitioners are entitled to recover taxable costs and a reasonable attorney's fee from the Respondents as the prevailing party pursuant to F.S. 286.031(4). The Court retains jurisdiction to determine the appropriate amount of costs and fees.

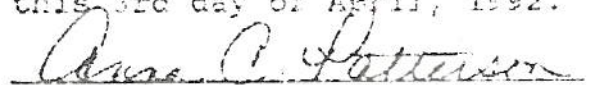
DONE AND ORDERED in Chambers, at Kissimmee, Osceola County, Florida this 3rd day of April, 1992.

  
R. JAMES STROKER, CIRCUIT JUDGE

Copies furnished to:

David L. Evans, Esq.  
Amy E. Goodblatt, Esq.

this 3rd day of April, 1992.

  
Judicial Assistant