

The Northeast

Vermont

Burlington Free Press

<http://www.burlingtonfreepress.com/apps/pbcs.dll/article?AID=/20060313/OPINION/603130319/1006&theme=>

Remember tradition of open government

It's appropriate that Sunshine Week, a national celebration of open government this week, falls in behind Vermont's Town Meeting Day.

Thoughts of the state's great democratic tradition, which played out in communities across the state last week, linger as we ponder questions of participation, the right to know, freedom of speech and the need for honest government.

Sunshine Week, started last year by the American Society of Newspaper Editors in response to concerns about government secrecy, should serve as a reminder that we must work for our democratic principles. We need to stay vigilant.

Vermont, while it has a proud history of democracy and openness, has had some lapses -- and they need to be addressed. More than 20 legislators recognized this earlier this year when they introduced a bill, H. 615, to preserve open government in Montpelier.

Members of the public, advocacy groups, the media and even state employees complain that the Douglas administration has become increasingly secretive. This needs to end. Senate hearings into the bill are expected later this week.

Sunshine Week also focuses on the federal Freedom of Information Act (FOIA), and how it works.

And it does work. Earlier this month, after four years, the Associated Press won a FOIA lawsuit that forced the Pentagon to release documents containing the names of detainees held at the U.S. military prison at Guantanamo Bay. The Bush administration had tried to keep the prisoners' identities secret.

This week, the Free Press Opinion pages highlight the second annual Sunshine Week with editorials and commentary by Vermonters, as well as an online forum for readers' comments on our Web site, www.burlingtonfreepress.com. Click on Opinion and the "Sunshine Week Forum" link.

Join the discussion. Demand open government and freedom of information. They are your rights.

How to participate

To join the discussion on open government and the right to know, go to the Free Press Web site, www.burlingtonfreepress.com, click on Opinion and "Sunshine Week Forum." For more information about Sunshine Week, go to www.sunshineweek.org.

<http://www.burlingtonfreepress.com/apps/pbcs.dll/article?AID=/20060314/OPINION/603140327/1006/NEWS05>

Open government to its citizens

By Paul K. McMasters

Let me tell you about a truly unhealthy relationship. The symptoms are well-documented: One partner skulks about suspiciously, di

This is what's going on right now between American citizens and their government. It must be fixed. Until both partners in this relationship are restored to equal footing, democracy suffers.

As in all dysfunctional relationships, communication is the problem. Over the last few years, the information flow between the government and the public has become increasingly torturous. When voters and taxpayers seek access to government information, they usually are in for an ordeal and disappointment. When federal officials share information voluntarily, it often has a whiff of politics accompanying it.

Understandably, voters and taxpayers want more access to government information. Requests for information under the Freedom of Information Act have increased by 23 percent in the latest year for which figures are available. But there is only a one-in-three chance that those requests will produce a meaningful response. If requesters go to court to challenge rejection, only one in 100 will succeed.

To compound the problem, agencies frequently fail to respond to requests within the 20 days the FOIA requires. Barriers to access also have taken on a new dimension in the form of "sensitive but unclassified" information that must be "safeguarded," which in practice translates into withholding. Massive stores of government information that is neither classified nor exempt under FOIA have been put beyond the reach of the public, scholars, scientists and the press.

In the meantime, federal officials have been manufacturing secrets at a record pace of 15 million-plus a year. In 1997, 20 officials in the federal government were empowered to wield the top secret stamp. Now there are 1,300.

Even government officials concede that this "most open society in the world" has far too many secrets and far too few standards for making secrets.

The most recent example of this numbing and expensive secrecy was the revelation last month that for the last seven years representatives of intelligence agencies have been hidden away in the bowels of the National Archives pulling back into the shadows more than 55,000 pages of information that have been in public for years, some of it dating to World War II.

Mind you, very little if any of this information seems to have had anything to do with national security.

News of the backroom operation did create something of a dust-up. The nation's archivist ordered a moratorium on the reclassification project. The Information Security Oversight Office began an audit of the information reclassified. The Public Interest Declassification Board began a review.

Secrecy for security's sake, of course, is one thing. Secrecy for the sake of power and control is quite another. Excessive and reflexive secrecy doesn't make us safer. It does make us democratically dysfunctional.

Don't look to the elected and appointed leaders who brought about this dramatic shift in the U.S. information policy for help. They have few incentives to loosen their grip on national agenda-setting and the hiding of abuse or mistakes.

So it falls to the American people to heal this relationship. And as vital as true communication is to representative, accountable and effective government, the vast majority of us seem to be content in the role of unequal partner.

As long as that attitude persists, this relationship is not just dysfunctional, it is dangerous and destructive -- for both sides.

Paul K. McMasters is First Amendment ombudsman at the First Amendment Center, 1101 Wilson Blvd., Arlington, Va. 22209.

Massachusetts

The Springfield Republican

Plenty of sunshine good for democracy

Most Americans are unfamiliar with Sunshine Week.

For the past week, this newspaper has attempted to educate its readers about Sunshine Week and the importance of open government.

We have published stories about the newspaper's many battles on behalf of the public, and we have published stories about private citizens and their struggles with public officials to obtain information that, by law, is free to anyone who asks for it.

The six-part series concluded on Friday, and we hope readers now understand that Sunshine Week is not about newspapers or newspaper reporters or Judith Miller or Bob Woodward or anyone else in the media. It's about the public and the public's right to know what its government is doing. It's about information that belongs to the public, not a government agency or a government official. In one respect, democracy is like a small child. It is afraid of the dark - and with good reason. Democracy is not safe in the dark.

The public is often not likely to know when a government agency or official refuses to disclose a public document, but that does not lessen the public's right to know. It is incumbent on the press to fight for openness, and we will continue to do so.

Here are just a few of the stories you have read because the newspaper pursued the release of public documents through state and federal laws that protect access to information:

Documents released under a request by The Republican disclosed that the state Department of Social Services sought to remove a comatose Westfield girl from life support within a week of gaining custody. The 11-year-old girl has since shown signs of recovery and is now in a rehabilitation facility in Boston. As a result of news stories about the case, Gov. W. Mitt Romney appointed a commission to investigate the state's handling of the case.

Audits obtained through a freedom of information request disclosed that the former Southwest Community Health Center, a publicly funded health center in Springfield, boosted the salary of its director from \$95,962 in 2002 to \$144,523 in 2004 even as it struggled with a \$750,000 deficit. It also spent as much as \$700,000 in one year on consultants.

On July 27, 2004, after hearing arguments from a lawyer representing The Republican, the Massachusetts Supreme Judicial Court unsealed the records of an investigation into the murder of Daniel Croteau, an altar boy who was killed in Chicopee in 1972. The newspaper was opposed by the Hampden district attorney's office and a lawyer representing the only suspect in the case, defrocked priest, Richard R. Lavigne.

Documents obtained by The Republican in December under the freedom of information law disclosed that federal auditors have accused the Pioneer Valley Transit Authority of compiling more than \$3 million in unauthorized expenditures developing Union Station, a proposed transportation and retail center that is the subject of a federal corruption probe.

On Feb. 12, again using the freedom of information law, the newspaper obtained records disclosing that the PVTA handed out \$24,000 in pay raises and gave a \$228,000 severance package to administrator Gary A. Shepard, who was later suspended with pay.

Public access to information "is the very basis of democracy," said Pamela Wilcox, executive director of Common Cause of Massachusetts, a government watchdog group. "People forget what it was like before the laws were passed; when the selectmen want to approve a budget now, they can't just kick everybody out of the room."

Since the Sept. 11, 2001, terrorist attacks, government has steadily limited the public's access to public documents. On the federal level, the government established a new record for secrecy in 2004, deciding on 15.6 million occasions to classify information and keep it out of the public's reach. The explanation for this secrecy is national security. The theory is simple enough: What you don't know can't hurt you. History has shown that this is not true, and we hope the newspaper's six-part series on the Sunshine Week has helped to demonstrate that.

Massachusetts still lags behind many states in sharing information with its citizens. It is one of 10 states that provides no punishment for individuals who violate the Open Meeting Law. Legislation is pending to change that. Also, a bill is pending that would prevent a judge from ordering a reporter to identify a confidential source, except in certain circumstances. It is not being called a "shield law" to avoid the misperception that the proposed law would protect reporters. If passed, and we certainly hope it will pass, the law would protect the public's right to know. The Massachusetts Newspaper Publishers Association prefers its official title, "the Free Flow of Information Act." So do we.

Certainly, we will be more secure and better informed, when democracy is not operating in the dark.

<http://www.masslive.com/chicopeeholyoke/republican/index.ssf?/base/news-3/1142067503245150.xml&coll=1>

Newspaper battles for public's right

By MARIE P. GRADY

Editor's note: Marie P. Grady is managing editor of The Republican. She can be reached at mgrady@repub.com

Imagine finally learning, after 30 years, how hard investigators worked to find the killer of your 13-year-old son.

Think about the hardest working person you've ever known turning over thousands of dollars of his or her income to someone who never has to answer for what they did with it.

Picture losing your beautiful daughter or son to a terrorist attack on the United States and never being able to learn what the government did to prevent the attack, or what it has learned to prevent another parent from losing his or her child.

If it were not for freedom of information laws in America and newspapers that go the extra mile to see them enforced, the parents of Springfield altar boy Daniel Croteau might still be waiting to see the records of the investigation into his death.

You and I might still be waiting to learn whether government officials and community leaders invested and used our tax money wisely or used it to benefit themselves and their families, as the ongoing corruption probe in Springfield shows has too often been the case.

And the survivors of the victims of the Sept. 11, 2001, terrorist attacks on the U.S. might still be waiting for the 9/11 commission's report on how much officials knew about the threat and what they did to prevent it.

Today marks the beginning of national Sunshine Week, the second annual observance of the importance of freedom of information in a Democratic society. Fittingly, the week leading up to this observance was marked by the release of videotapes, obtained by the Associated Press, that showed what President Bush knew, and when, about the devastation of Hurricane Katrina and how he and the Democratic governor of Louisiana reacted.

National Sunshine Week, shepherded by the American Society of Newspaper Editors, grew out of a 2002 effort in Florida, a state whose freedom of information law far outshines those in Massachusetts and many other states.

But we at The Republican don't need a national observance to underscore the importance of shining a light on public business. From every reporter and editor to the publisher, we are passionate about freedom of information.

In the face of eroding federal access and increasing resistance to open government from many public officials, protecting the public's right to know is more important now than ever. That is why Publisher Larry McDermott finds the considerable funds needed to fight freedom of information battles all the way up to the Massachusetts Supreme Judicial Court, even in straitened times for newspapers.

It is why Executive Editor Wayne E. Phaneuf, every one of our editors and I will invest every ounce of our energy into protecting your right to know.

On the front lines of this effort are our reporters. Every time officials improperly try to discuss important public business behind closed doors, or refuse to turn over public records, our reporters will protest even if it means that these same officials will make their lives difficult for months or years on end.

This does not mean that most public officials get into public service to abuse their power. On the contrary, most I have covered or known over the years have devoted themselves to an often thankless job with the sole objective of improving their communities.

But the best of them, from selectmen in the smallest towns to the head of the state-appointed control board managing Springfield's finances, never forget who their boss is.

Their boss is you and me. That's because it is our tax money they are spending to pave roads or to select and pay public employees.

When public officials abuse our trust it is almost certain that you will learn about it from your newspaper. With all due respect to our colleagues in radio and television, more often than not it is the newspaper, and often this newspaper, that has undertaken the often laborious and costly work to protect your right to know.

When you read it here it is history; when you hear it there it is often plagiarism borrowed from the pages of history (this newspaper).

Indeed, if it were not for newspapers in this country and this newspaper in Springfield you might never have learned of some of the most important stories of our times.

It was this newspaper that joined Greenfield lawyer John Stobierski on behalf of clergy abuse victims to unveil documents shrouded for years in secrecy. A lawyer for the newspaper argued before the state's highest court that documents related to the 1972 murder of altar boy Daniel Croteau should be unsealed.

In July of 2004 the high court lifted the veil of secrecy 32 years after the boy was found slain on the banks of the Chicopee River. A priest who was defrocked not too long ago was the chief suspect.

In the decade before the court ruling - and long before the problem of clergy abuse became a national story - the newspaper fought numerous court battles to open up records relating to clergy abuse and the Croteau case in particular.

It is not accurate to say that "we won" these cases because the true winners were the victims, their families and, ultimately, every one of us.

More recently, The Republican filed a legal argument with the Massachusetts Supreme Judicial Court that a state agency should disclose why it should have the right to remove an 11-year-old Westfield girl named Haleigh Poutre from life support after her adoptive mother and stepfather were charged with abusing her. You, and Haleigh - who is now in a Boston rehabilitation hospital after showing signs of improvement - won that case too.

And it was The Republican that first reported significant developments in the Springfield corruption probe, including the fact that two city-appointed managers of a federal loan fund for small businesses were principals in consulting firms that improperly collected hundreds of thousands of dollars from the fund. We used state public records laws to report that story more than a year before the two were convicted.

In years past this newspaper has helped to set case law in a number of important areas, including that no municipality can make a confidential out-of-court settlement with any party. After all, the settlement money comes from your pocket and mine.

These freedom of information battles are often tedious and long. Just last week we had trouble with some officials over release of public documents for our series on freedom of information issues. Some officials, apparently annoyed at us for doing our jobs, have decided to make public access to records as difficult as possible.

As someone who has spent countless hours battling with high-priced lawyers - efforts that are reflected in files that are more than a foot deep in my office - I can tell you it would be much easier for us to just accept it

when a government official tells us he does not have to release certain records. But if the press becomes complacent, who is watching out for the people?

Many of these freedom of information efforts, including a 10-month battle to open up police staffing records in Springfield, shouldn't be necessary. But the outcome is worth it to the public.

As the paper worked on a series on the police issue - while still waiting for these records to be released - the Police Commission ordered that more officers be assigned to crime-fighting duty and the state ultimately ruled that the records should be made public.

The newspaper does not win every freedom of information battle, nor does it expect to. Recently we learned that a community agency in Springfield that receives about \$4 million in public funds would not have to disclose financial records to the public because it was not incorporated decades ago as a public agency.

The decision from the state came eight months after we first sought the records.

While this community agency resisted disclosure efforts, another agency readily allowed access to documents detailing how it used public funds.

There is no doubt such organizations do a great deal of good with public funds, but any agency's reluctance to disclose how it uses your money should automatically raise concern.

And government officials who discourage transparency should know that they will only train a more intense spotlight on themselves.

Our newspaper last year won the top two Associated Press awards in New England for its freedom of information efforts, but we do not wage these battles for awards. We fight for the public's right to know because, frankly, if we didn't do it, it is doubtful that anyone else would.

Many immigrants first came to this country not only to flee poverty but to find freedom, in all its many forms.

My own parents, who hailed from Ireland, believed this America was the greatest country on Earth. My mother still does. They are also the hardest working people I have ever known.

It sickens all of us when we learn of public officials who line their own pockets with the money of hard working people, especially when the money is supposed to be used for needy people.

And it disturbs every good journalist and every good citizen when government officials attempt to cloak public business in secrecy.

I have met with many foreign journalists over the years whose countries are finally living in the light of democracy. They have told me horror stories of secret governments that squelched freedom of information at every opportunity, sometimes taking the lives of the truth-tellers.

We should not need a national Sunshine Week to recognize the importance of open government. As history has shown elsewhere, a United States that cedes the light of truth to the darkness of indifference is doomed to failure.

This is why we are passionate at The Republican about freedom of information. Are you?

Lowell Sun

http://www.lowellsun.com/front/ci_3595082

An open government -- why it matters to you

Today marks the beginning of Sunshine Week 2006, during which newspapers across the country will publish stories about the importance of promoting and protecting open government.

This is the second year media outlets have sought to generate discussion about the value of the First Amendment and how government secrecy, when allowed to go unchecked, diminishes democracy.

The Sun will publish a daily series aimed at educating the public on its right to know what its government is doing. Stories will also describe how the state's Open Meeting Law and Public Records Law work, and how you can obtain public documents.

The week concludes with a survey on how local municipal governments responded to requests for basic public records, including executive contracts.

For the rest of the week, above The Sun's masthead will appear the statement "Today's news is brought to you by the First Amendment." We urge readers to reflect on its meaning, and consider how vastly different America would be if the land allowed government to operate in the dark.

Jim Campanini, Editor

New York

Rochester Democrat and Chronicle

<http://www.democratandchronicle.com/apps/pbcs.dll/article?AID=/20060312/OPINION02/603120311/1039/OPINION>

N.Y. law gives citizens handle on government

Robert J. Freeman
Guest essayist

Foil" is what we use to wrap up leftovers. "Sunshine" brightens our days. Both of those words, however, have acquired new meanings. FOIL stands for the Freedom of Information Law, which gives the public access to government records.

The sunshine law gives the public the right to attend meetings of government bodies and is officially known as the Open Meetings Law.

The grandfather of sunshine laws is the federal Freedom of Information Act, passed in 1966. On the heels of Watergate, it was strengthened in 1974. New York enacted its first version of FOIL that same year, and by the early 1980s, every state had passed both access-to-records and open-meetings laws.

Our FOIL states that all records maintained by state and local government are available, unless they may properly be withheld based on an exception in the law.

Similarly, the Open Meetings Law requires that meetings of government bodies, such as city councils, town boards and boards of education, must be open to the public, unless there is a basis for a closed, or "executive," session.

What these laws say in essence is that all government records and meetings must be open to the public, unless disclosure would "hurt" — a person in terms of an unwarranted invasion of privacy, the government in terms of its ability to serve the public or a private company in relation to its competition.

A unique feature of sunshine laws in New York is the Committee on Open Government. The committee was created as part of the FOIL, and its staff of four is housed in the New York State Department of State. The committee provides advice by phone, as well as written legal opinions on access to government information free of charge to the public, representatives of state and local government and the news media.

Since 1974, the committee has responded to nearly one-quarter million telephone inquiries, given more than a thousand presentations, and prepared more than 20,000 written opinions, many of which are available on our Web site.

Sunshine laws have changed the relationship between the government and the public, for they give us the right to know what the government is up to.

Who uses these laws? Thousands of New Yorkers request records each year. We don't think about the right to attend the meeting of the city council or school board, we just go. Open government laws have become part of the fabric of government.

Have open government laws really made a difference?

Many have gone to the meetings at the town hall to hear about the plans to build a new shopping area. We listen to the school board discuss the budget, the need for a new wing on the school or cuts in teaching positions. We have the right to find out what may happen before it happens.

And after hearing about the new development, we can obtain the plans. We can review the facts and figures to find out how much the new wing will cost or what teachers are paid. We can read copies of studies relating to the future of our communities.

What can we do with this information? We can try to ensure that government serves us well.

One case in point: A taxpayer wanted to inform residents of a school district of his views regarding the district's proposed budget, and he requested the districtwide mailing list in the form of mailing labels.

The district offered a printout rather than mailing labels. He sued and won, and the court ordered the district to pay his attorney's fees. Armed with the list, he was able to offer a perspective in an effort to affect the course of government and the budget impact on taxpayers.

In another case, a child was having trouble in school and when the child's mother filed a request with the school district to obtain a copy of the teacher's teaching certificate, she learned that the teacher was not certified to teach math. Soon the district took steps to correct the problem.

How do you want to obtain government records — on paper, or computer disk?

If it's on paper and it's public, you can inspect it for free. If you want a photocopy, the government can charge up to 25 cents. If you want it on a computer disk and the government can make it available in that form, it must do so based on the actual cost of reproduction. A photocopy of a 100-page document may cost \$25, but transferring it to a computer disk may cost 49 cents.

FOIL and sunshine laws can have a positive impact on our lives.

Freeman is executive director, Committee on Open Government.

Binghamton Press and Sun Bulletin

<http://www.pressconnects.com/apps/pbcs.dll/article?AID=/20060314/OPINION/603140315/1005>

Government requires lots of sunshine

By MAHTA KHANJAR

Robert Freeman takes a healthy sip of coffee. He sets down the small paper cup and leans against his desk, gazing at the young faces before him.

"Your first assignment will be to make a FOIL request," he says, and the students riffle through the syllabus, looking in confusion for a description of the assignment. "You will have to ask a state agency for documents which you as citizens have rights of access to."

Every spring, Freeman, director of the New York State Committee on Open Government, teaches a seminar course at Albany Law School titled "Public Access to Government Information." But he spends most of his days helping average citizens find out what their government is doing, by advising them about their right to request documents or attend meetings.

He answers their questions about the laws that give them this access - laws that many people are unaware of until they need to find something and can't.

It is not surprising, then, that Freeman was looking forward to this second annual Sunshine Week, which began on March 12. The celebration of open government is a national effort to focus on the American public's right to know - the doctrine at the heart of the Freedom of Information Law (FOIL).

The federal Freedom of Information Act (FOIA), which gave rise to FOIL, was first enacted in 1966. The Act's primary purpose was to create an informed citizenry by ensuring public access to government information. FOIA created the first set of laws granting the public the right to obtain agency records.

"An uninformed public can do no good," Freeman said. "Only with information can we contribute and improve the way we live. Ignorance really is not bliss. The more secrecy we have within our government, the less accountability."

Throughout its 40-year existence, the Act has been amended several times as a direct response to political affairs of the time. The first set of changes came in 1974, in the aftermath of the Watergate scandal. In an effort to improve government accountability, Congress passed the Sunshine Laws, a series of amendments mandating greater agency compliance with public requests.

Unfortunately, not all of the proposed amendments during the last four decades have been intended to strengthen the Act. Shortly after the terrorist attacks of Sept. 11, 2001, U.S. Attorney General John Ashcroft sent a memo to federal agencies encouraging the denial of FOIL requests in the name of national security.

"During the Clinton administration, (attorney general) Janet Reno had sent a memo instructing FOIL officers to look at requests with a presumption of openness. The Ashcroft 2001 memo basically tells these same officers to ignore Reno's previous instructions," said Debra Gersh Hernandez, a member of the American Society of Newspaper Editors and lead coordinator of Sunshine Week 2006.

"Within the last three years, the amount of classified materials has doubled to 15.6 million decisions to classify documents," said Hodding Carter, a professor of public policy at the University of North Carolina at Chapel Hill and Honorary Chairman of Sunshine Week 2006.

According to a study conducted by the Coalition of Journalists for Open Government, in 2000 the federal government granted nearly 350,000 FOIL requests but by 2004 that number had dropped to fewer than 250,000.

"The purpose of Sunshine Week is two-fold," Carter said. "One, to make it clear the extent big government has been curtailing the flow of information, and two, to let people know ways to deal with this type of government behavior."

The week is scheduled to conclude on March 17 with the airing of The Sunshine Gang, a one-hour documentary produced by the PBS weekly news-magazine NOW. "The film highlights a group of whistle-blowers who risked their careers and reputations to tell the truth regarding what is going on in government," said Rick Byrne, a spokesman for NOW. "We hope there will be a connection with what we are doing and a national discussion on public access to government information."

For more information, go to the Web site www.sunshineweek.org.

Kahnjar is a second-year student at Albany Law School and an intern at the New York Newspaper Publishers Association Inc.

Westchester Journal News

<http://www.thejournalnews.com/apps/pbcs.dll/article?AID=/20060312/OPINION01/603120310>

Editorial: Sunshine Week

A depressingly dark, local cloud shadows the first day of Sunshine Week, an opportunity that we and other news media take to preach the importance of the public's right to know — and, we would hope, congratulate local government agencies on their understanding of that importance.

Last year, when Journal News staffers went in search of records that the law requires be open to the public, they met with mixed results. Some offices were knowledgeable of the state Freedom of Information Law requirements and responded promptly; others were sluggish; some failed the test altogether.

The worst performers, overall, were local police departments. That's where staffers concentrated to see if lessons were learned. Today's gloomy front-page story reports that the results were, again, dismal.

There was some talk after last year's report of the Westchester County Police Chiefs Association providing more guidance on freedom-of-information requirements. If anything was done, it obviously wasn't enough. We trust there will be a stronger response now, from both the association and individual chiefs.

The reaction from state legislators — our Westchester, Rockland and Putnam representatives, in particular — was more heartening last year. Many of them got behind improvements to FOIL and the Open Meetings Law that have been recommended by the state's in-house watchdog, the Committee on Open Government. We were proud that our delegation led the way, scoring a notable success with legislation sponsored by Sen. Nicholas Spano, R-Yonkers, that requires agencies to respond to a citizen's records request under stepped-up time limits.

Other bills sputtered, though, dying in committee or passed by only one house of the Legislature.

It's time for another push.

In a Community View column on this page, Robert Freeman, the Committee on Open Government's executive director, calls attention to two Assembly bills that would combat governmental violation of the law by encouraging more court challenges to their reluctance to part with public information. The legislation would award legal fees to people whose lawsuits establish that agencies violated FOIL or the Open Meetings Law. Legal expenses are now very difficult to recover. The open meetings bill is sponsored by Assemblywoman Amy Paulin, D-Scarsdale.

We urge Spano, Paulin and the rest of the delegation to renew their efforts, as well, on behalf of the reforms left undone last year. Among them are bills that

- Call on agencies to deliver documents by e-mail when possible and requested in that form;
- Limit what same-party members of a government board can discuss in closed political caucus meetings to party, not public, business;
- Make public any finding or admission of misconduct involving a police officer, now disclosed only with an officer's permission;
- Require public bodies to make available 72 hours before a meeting proposed laws and some other agenda items;
- Extend to the Legislature itself the disclosure standards that the Freedom of Information Law now sets for other government agencies. Legislators can play by more lenient rules, permitting them to hide such pertinent information as staff expenses.

We hope our periodic updates on these issues will be liberally sprinkled with applause for more successes.

Ithaca Journal

<http://www.theithacajournal.com/apps/pbcs.dll/article?AID=/20060322/OPINION01/603220307/1014>

Open government: Sometimes sunshine needs some legal help

Last week, The Journal ran a three-day series of articles highlighting something called Sunshine Week. The idea, advocated by the American Society of Newspaper Editors, is for newspapers throughout the county to use the second week of March to focus the public's attention on the importance of open government and access to records. Locally, Journal reporter Anne Ju led a team that looked at local practices and compiled a complete list of area government boards, meeting times, agenda and public comment policies. That work can still be found on-line at www.theithacajournal.com/foia.

The good news for New Yorkers is newspapers weren't the only ones who used last week to pump some life into the idea of open government.

First, imagine this:

You're trying to get a record from a state agency. You've read the handy pamphlet distributed by the state's own Committee on Open Government. You've even gone online and read the law and you're very sure you, as a taxpayer and citizen, have a right to this information. You file the formal letter asking for the records and start counting the days the agency has to respond.

Then nothing.

No records. No rejection. No reason. Nothing.

You start making calls and, even when you can get through the automated answering system, you still get shuffled off to endless dead ends. Follow-up letters are ignored. You get pretty fired up and hire a lawyer. She drags the state agency to court - just like the state's Freedom of Information Law allows - and the judge says you were absolutely right. Getting that win cost you thousands of dollars in legal fees, so you remind the judge the law makes it possible for you to get repaid for those costs. The judge gives it some thought, but decides the records you wanted were important to you, and you had a legal right to have them, but the records were not "of clearly significant interest to the general public." You win, but you lose.

Of course, lots of less cooperative elements in state government know that's the way it works, as do the lawyers who might sue them. So a state agency not eager to have some damaging records exposed has an incentive to ignore the public's request for records. They know, even if a person thinks about dragging them to court, every lawyer will warn the person they'll likely lose a good chunk of money in legal expenses. Faced with the hassle and the expense, it's likely most people - particularly less affluent people - will just walk away. So much for sunshine.

But, remember, this is a good news editorial.

A week ago today the Assembly passed a bill by Utica area representative RoAnn Destito that would end that state agency strategy. Under the bill (A.9661), a court “shall,” not “may,” award reasonable attorney fees and litigation costs as long as the agency had “no reasonable basis for denying access” or “failed to respond to a request ... within the statutory time.” The citizen will get her costs back even if the agency backs down just before the judge can rule.

The change means the time-honored government tradition of ignoring citizens, and its sister tactic of making a right cost so much to exercise it's never used, will no longer be cost-free cover for state agencies. Destito even thinks the threat of losing court costs by not responding to record requests will speed up responses and save the state money by avoiding litigation in the first place.

We think she's right.

And so does Syracuse-area state Senate Republican John DiFrancisco, who is backing the bill in his house. As it stands now, that version of the bill (S.7011) sits in the Investigations and Government Operations Committee awaiting action. DiFrancisco, the chairman of the Senate Judiciary Committee, has some serious clout, but so do dozens of state agencies, which will no doubt have staffers busy calling the senate and the governor's office to kill this bill before it gets another step toward reality.

That's where you come in.

One thing that motivates elected officials more than calls from old friends at the Department of Whatever is the deeply ingrained instinct to avoid angry voters during an election season. That makes this a good time to act. If you think getting the records you have a legal right to see shouldn't take years and cost you the kid's college fund, drop your local senator, DiFrancisco and Gov. Pataki's office a line. Just tell them that, like the stuff from the sky, political sunshine should be free for everyone. Otherwise, the price of darkness gets even greater.