

OPEN MEETINGS VIOLATION COMPLAINT

Hand Delivered to Bardstown City Council's Agency Headquarters June 4, 2012

Mayor William S. Sheckles
220 N. Fifth Street
Bardstown, Kentucky 40004

Mayor Sheckles:

On or about January 16, 2012, the entity known as the Bardstown Fire Department, that is a subdivision of the City of Bardstown, held their annual election as per the dictates of Chapter 36 of the Bardstown Code of Ordinances. The mandates of the ordinance in place at that time had mayoral requirements (emphasis) that you have to wit, failed to perform.

In the interim you allegedly have knowingly allowed a member of your administration to cause chaos and play havoc, with the fire department in what I consider an alleged act of retribution for voting out the former fire chief. The resultant alleged act of retaliation is the promulgation of two new ordinances, B2012-001 and B2012-002 possibly at your directions that were allegedly promulgated contrary to statute, allegedly by Bardstown's Assistant City Administrator Larry Green and NOT by the Legislative body of the City of Bardstown.

These two ordinances are as illegal as are the approximate 127 minutes of open meeting infractions that you orchestrated as the Mayor of Bardstown at the closed session of the Bardstown City Council meeting held on January 24, 2012. While in illegal closed session, the abovementioned ordinance(s) were allegedly discussed, along with other equally verboten items under your guise of going into a legitimate closed session citing KRS 810(1) (f) as your exemption to the "Act" on January 24, 2012, and verbally stating the purpose as "for discussions which might lead to the **appointment, discipline, or dismissal** of an individual **employee** without restricting that employee's right to a public hearing."

The **only** (emphasis) meeting the Bardstown City Council held between the fire department's members election on January 16, 2012 and the **first** reading at a special meeting on January 26, 2012 of the two newly created fire department related ordinances was the January 24th, 2012 meeting. Statutory requirements imposed on the City's legislative body limited the promulgation of those two ordinances by the council to January 24, 2012. To be legal both aforementioned ordinances would have to had been **introduced** (emphasis) by a member of the **legislative body**, if there is to be even a hint of semblance of legitimacy to these two new ordinances, that record wise just fell out of the sky for a first reading. Any request for audio records or records showing an **accurate vote** (emphasis) as required by the Open Meetings Act in the legislative body's minutes to amend and/or promulgate **any** ordinance related to Chapter 36 and/or Chapter 33 or of the required legislative body member's introduction of an ordinance is a "not available record."

WHY, because the Legislative body of the City of Bardstown **officially** via a total lack of any records thereto, had absolutely NO official input in the promulgation of B2012-001 and B2012-002 in any **open session**. Any participation of that legislative body in closed session of course would be illegal; being that action would be **contrary** to the "Open Meetings Act". The minutes of the **only** legislative body that is capable to promulgate an ordinance for the City of Bardstown are VOID of any records where the ordinance(s) in question were introduced by a member of the legislative body. When one asks for these public records from a member of your administration, that have to exist IF an ordinance exist, one only gets "not available record."

Simply put any law conceived in violation of another law is **null and void**. Equally simple to figure out is that the promulgator(s) of the abovementioned two ordinances in question are NOT legislation body members in an open session, via the total absence of any records! Those ghost records now being referred to as “not available record!”

Bardstown might have two ordinances with numbers B2012-001 and 002 assigned to them, but they're not worth the paper they are written on. Via your minutes it seems that you have been having a rash of reality lately concerning the validity of Bardstown's Code of Ordinances!

How does all this relate to **YOUR** violating the Open Meetings Act?

As per the mandates of the “Act,” as the complainant of alleged infractions in direct contradiction of the “Act that the complainant alleges occurred on January 24, 2012, between 7:43 p.m. and 9:50 p.m. I have the duty to point out to you the open meeting infractions, and then propose remedial action(s).

YOUR alleged infractions of the “Act” are based strictly and solely on the minutes provided by Bardstown's City Attorney Tom Donan, and/or the City of Bardstown's Clerk, Bobbe Blincoc via my open records request of April 17, 2012, since audio records are a “not available record.”

At the January 24, 2012 meeting per the minutes of said meeting, you quoted KRS 61.810, (1)(f) to get the council out of the public eye, and to discuss with your “councilmen” in **secret**, items not allowable to be discussed under the statute quoted. The **ONLY** thing you could have legally discussed was an **employee**, and then only as it related to the appointment of the employee, or to the discipline of an employee, or to the dismissal of an employee. Nothing else! You failed to designate with **specificity** which action you were performing in closed session with your alleged “employee” and as such you **FAILED** in your duties to perform the mandates of the “Act” to properly cite in open session, what you were going to discuss in closed session. Wrapped up in a nutshell you **never** cited anything that would have allowed you to take the Bardstown City Council legally into a closed session on January 24, 2012 as per your meeting's minutes, and since the audio record is a “not available record” you're stuck now with me in possession of a copy of your **unaltered** minutes as the **ONLY** record.

In essence, as the Mayor of Bardstown you lied to every citizen of Bardstown, when you quoted “KRS 61.810 (1) (f), for discussions which might lead to the **appointment, discipline, or dismissal** of an individual **employee** without restricting that employee's right to a public hearing”, as per the January 24, 2012 minutes, when you remove yourself and the council from public scrutiny, by going into a closed session for reasons other than the one cited. You then used your lie to discuss verboten items in secret, and out of the public view, items expressly prohibited by statute to discuss in a closed session. There **WAS** discussion of items in the closed session on January 24, 2012 that were **NOT** mentioned while in open session, and that were **NOT** covered by the exemption to the “Act” quoted, KRS 61.810, (1)(f).

Simply put the items you chose to discuss in closed session on January 24, 2012, where **not** the items brought up by you to discuss in open session. You used your position as mayor to run off behind closed doors to inform all the city “councilmen” in secret about the “situation” down at the fire station. You used your position as mayor to run off behind closed doors, and inform your city council in secret what you thought would be the best way to handle the situation at the fire station, that being a new “ordinance”, to replace an alleged “ambiguous” ordinance that had been in place since the mid 1920's. Your main purpose into going into closed session at 7:43 p.m. January 24, 2012 was **NOT** to discuss the appointment, discipline or dismissal of an

employee as stated prior in open session, it was to talk about your need for an “*ordinance*” that gave you power and dominion not only of the Bardstown Fire Department, but gave you control through a relationship clause over an Incorporated Fire Department, the Bardstown/Nelson County Volunteer Fire Department and about fire station “*situations*.” Both of which are **NOT** verbal fodder to be talking legally about behind closed doors and the backs of the citizenry of Bardstown, in a closed session.

I can hear your legal counsel wrangling all this up as opinion, innuendo, and conclusions of the complainant. After all it all happened behind closed doors, and you didn’t send any viable records, they all for the most part were “not available records” weren’t they!

As the complainant of open meeting violations, the following are the alleged violations of the Open Meetings Act that occurred at the Bardstown City Council meeting on January 24, 2012:

1. Your first alleged infraction of the Open Meeting Act on January 24, 2012 is that you failed to state the **reason**, that you needed to go into secret session as required by statute, when you quoted KRS 61.810, (1)(f).

2. Your second alleged infraction on January 24, 2012 of the “Act” is you failed to properly state the **general nature of the business**, to be conducted in the January 24, 2012 closed session, as required by statute.

3. Your third infraction is you **discussed in closed session** item(s), not covered by any **exemptions** of the Act, that are required by statute to be discussed in **open** session.

3a. The “*ordinance*” and “*situation at the fire station*”, had nothing to do with the **appointment** of an **employee** (emphasis) as you quoted on January 24, 2012 as your exemption for going into secret “closed session”.

3b. The “*ordinance*” and “*situation at the fire station*” had nothing to do with the **discipline** of an **employee** (emphasis) as you quoted on January 24, 2012 as your exemption for going into secret “closed session”.

3c. The “*ordinance*” and “*situation at the fire station*” had nothing to do with the **dismissal** of an **employee** (emphasis) as you quoted on January 24, 2012 as your exemption for going into secret “closed session”.

3d. An “*ordinance*” is NOT an **employee** (emphasis), and the “*situation at the fire station*” is NOT an **employee**. (emphasis) They ethically shouldn’t have been discussed and they couldn’t legally have been discussed behind closed doors on January 24, 2012.

4. Even if you as Mayor of Bardstown had a legitimate excuse to legally have gone into a closed session regarding an employee on January 24, 2012, and you hadn’t discussed your perceived need for an “*ordinance*” or “*situations*” at the fire station mentioned above, your quoting “*for discussions which might lead to the appointment, discipline, or dismissal of an individual employee without restricting that employee’s right to a public hearing*”, is procedurally wrong. As presented by you, this procedurally deficient reading of the **entire set of exempt actions** from the Act is of itself an infraction of the Open Meetings Act.

On January 24, 2012 you spent approximately 127 minutes as per the minutes of Bardstown’s legislative body, allegedly illegally in closed session in direct contradiction of the Open Meetings

Act. Since the City of Bardstown has adopted the Open Meetings Act as a Chapter in its Code of Ordinances, and you have 2 years left on your term of mayor, you and your minions might as well **learn** how to conduct a public meeting. WHY, because when you are in VIOLATION of the group of Kentucky Revised Statutes know collectively as the Open Meetings Act, you're in VIOLATION of your OWN Code of Ordinances as well!

As the complainant of the abovementioned infractions of the Open Records Act, these are my proposals to rectify the violations as it pertains to you and the city council's 1-24-2012 meeting:

1: I propose as remedial action that you, as an official act of the Mayor of Bardstown declare **null and void** ordinance B2012-001 and B2012-002 that were discussed and/or promulgated/drafted in whole or in part in the January 24, 2012, closed session of the Bardstown City Council meeting due to infractions of the Open Meeting Act.

2: I propose as remedial action that you, as an official act of the Mayor of Bardstown declare **null and void** the closed session portion of the Bardstown City Council 1-24-12 meeting in its entirety starting at 7:43 p.m. thru 9:50 p.m., citing infractions of the Open Meetings Act.

3: I propose that you as Mayor of the City of Bardstown publically apologize to the citizens of Bardstown, for conducting another **illegal** secret meeting on January 24, 2012 via the same media format that is currently set in place to inform the public of its special meetings.

4: I propose that after you meet the requirements in the abovementioned proposals number one, two, and three, that you as Mayor via a **Municipal Order**, to be read at the next scheduled meeting of the Bardstown City Council, that requires the Mayor, the Councilmen, and all other City of Bardstown officials, and administration personnel that have any dealings whatsoever with setting up and conducting public meetings to obtain and read until all concerned fully **comprehend** (emphasis) both of the following free publications available to public officials:

- a: The Attorney General's booklet: Protecting Your Right to Know: The Kentucky Open Records and Open Meetings Acts.
- b: Outline: The Law of Open Records and Open Meetings.

5: I then propose that a series of working sessions of the Bardstown City Council be dedicated and scheduled at the next scheduled meeting of the Bardstown City Council solely for the purpose of educating all concerned on the mechanics of the Open Meeting Act, KRS 61.800 through KRS 61.850, so that these continual, ongoing, most **embarrassing** infractions of the Kentucky Revised Statutes by the elected officials of the City of Bardstown cease and desist.

6: I then propose an **annual working session** be set aside and dedicated as a refresher course, as a continuing educational workshop, dealing strictly with the Open Meetings statutes.

Respectfully submitted,

Kevin Brumley
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