

The Secret Battle Among County Supervisors Continues

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The closed-door battle among county supervisors continued Friday in a 50-minute secret session. And, Watsonville Supervisor Wayne Moore is calling for the board to let the public know what it is doing during its private meetings.

Conservatives Moore and Supervisor Dan Forbus began the battle last week when they confidentially challenged an action the board secretly took on June 2.

On that date, the board unanimously agreed to hire a private attorney to intervene in an environmental group's suit to stop the annexation of 22 acres to the city of Scotts Valley.

The board has never publicly announced it spent taxpayers' money to hire the attorney, or what instructions were given the attorney.

Attorney Marc B. Mihaly of San Francisco has since filed a friend-of-the-court brief in the case on behalf of the county.

Moore and Forbus have said they agreed to having the brief filed, but did not want it to result in the blocking of the annexation. They say they only wanted the appellate court judge to rule on whether the Local Agency Formation Commission can continue to allow annexations without having official "sphere of influence"

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maps for each of the county's four cities.

Mihaly pointed out that he could not pursue the issue of "spheres" without improving the case of the environmental group, Resource Defense Fund.

Mihaly got his instructions from Board Chairman Gary Patton, who along with Supervisor Robley Levy voted against the annexation at the LAFC level. It is no secret that Patton opposes the annexation.

Last week, Supervisor Joe Cucchiara who generally supports Patton's position, said he agreed that Moore and Forbus were right, that the board did not want anything done to block the Scotts Valley annexation.

Following Friday's secret session, Patton said there was "no announcement since no action was taken."

Forbus would only say, "Nothing's changed and were going to talk about it

again Monday."

Moore came out Friday calling for board discussion in open session on the board's handling of closed session business.

Under the state Brown Act (secret meeting law), the board can go into closed session on personnel matters and contract negotiations.

Under case law, the board also can go into closed "litigation" sessions when the government is facing court suits, or initiating court suits.

Patton was challenged by the press when he failed to announce the hiring of the attorney and whereas initially he was apologetic, saying that such actions would be announced in the future, he has since told the press that no announcements have to be made on the board's decisions on litigation matters.

Such announcements are commonplace, however, when the county sues its citizens for welfare and public medical cost overpayments. A list of such threatened suits appears on the board's agenda each week.

District Attorney Art Danner said the board was correct in discussing the hiring of an attorney in closed session, but said he had not yet reviewed case law to determine if an announcement of the board's action should be made.

Danner was asked if there is a penalty for a board member not disclosing what is happening in closed session and he said that as far as he knew there is no penalty.

Along with questioning the board's intent in hiring the attorney, Forbus wrote to the appellate court judge last week telling him that Mihaly was not representing the board's actual position and that the private attorney's legal filing should be ignored.

Forbus's letter to the court angered Patton, who accused his colleague of interfering with the proper conduct of business.

In calling for a public discussion of what is and isn't proper in secret sessions, Moore says he also is troubled about a closed-door decision earlier this year when the board agreed to spend tax-

payers' money to purchase low-income housing.

Deputy County Counsel Dwight Herr said that in that instance the board was acting legally since there was a possibility the county would have to sue the builders.

In that instance, Patton announced the board's closed-door action.

Moore states, "At a minimum, the public should know when such actions are being taken" and that the board should

announce the subjects it will discuss before closing the doors to the public.

He also wants an announcement of litigation decisions after the board makes the secret decision.

As the battle has evolved, the board appears to be discussing in secret session what is legal and proper to discuss in secret session.

And, all board members have joined Patton's litany of "no comment."