

# Wisconsin Transparency Projects: Judge rules Marinette Common Council violated open meetings law

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Yesterday, Oconto County Circuit Court Judge Jay N. Conley ruled that the Marinette Common Council violated the Open Meetings Law when holding a closed session on October 7, 2020. During that meeting, the council received and discussed a report from engineers hired by the City to analyze the Town of Peshtigo's options for obtaining clean drinking water to replace wells contaminated with PFAS chemicals. Because "there were no negotiations or bargaining position to protect" during that meeting, "the meeting could have been held in open session" according to the Judge's ruling.

Wisconsin's Open Meetings Law requires all meetings of governmental bodies to be held in open session unless a statutory exception clearly applies.

The City had argued that because it might be asked to provide water to the Town at some point in the future, it was entitled to hold a closed session to hear and discuss a report from the Ruckert Mielke engineering firm. The Judge rejected that argument and declared "that the Open Meetings law was violated for the October 7, 2020 meeting."

"A disturbing pattern of secrecy and manipulation was exposed during this litigation," commented Marinette Alderman Doug Oitzinger, who attended the closed session and brought the case. "City officials hid from the public - and members of the Council - that Ruckert Mielke had written a report concluding that Marinette providing municipal water to replace wells contaminated by PFAS was the "most feasible and most economical alternative."

The Judge also ruled that an October 6, 2020 closed session to discuss a proposed deal with Tyco Fire Products to pay for equipment to make disposal of the city's wastewater treatment plants' byproducts cheaper was lawful. "Despite the split outcome," continued Oitzinger, "this litigation brought many facts and documents to light that were previously kept secret by the administration, and I consider this a success."

Oitzinger is represented in the suit by Attorney Tom Kamenick, President and Founder of the Wisconsin Transparency Project, a law firm dedicated exclusively to enforcing the state's Open Records and Open Meetings Laws. "I'm concerned by the court's ruling on the October 6 meeting," explained Kamenick. "It seems to suggest that if a government entity is in negotiations, it is entitled to hold all discussion related to that topic in closed session. That's not what the law says, and that is not consistent with prior cases that have ruled the government can only use closed sessions to protect a bargaining position. Negotiations with Tyco had already completed."

For a copy of the decision, complaint, or briefs, contact Attorney Kamenick