

## **Wisconsin Open Government Victories**

*By Bob Welch, WBA Lobbyist - State Issues*

On July 11th the Supreme Court handed open government advocates two huge victories. WBA filed briefs in both of these cases, both on its own, and as part of the Freedom of Information Council.

The first case involved the Beaver Dam Area Development Corporation and whether its deliberations as a “quasi-governmental corporation” were subject to Wisconsin’s open meetings and public records law. Although deciding that this was a “case-by-case” determination, the court ruled that the corporation was subject to the requirements of open government. They applied this ruling prospectively only, thereby not calling into question the corporation’s previous decisions.

This entire issue was the subject of a Legislative Council Study Committee requested by Sen. Scott Fitzgerald (who represents Beaver Dam) and featuring our own John Laabs as a committee member. The committee ended up deliberating, drafting discussing, and then disbanding without any action being taken.

This victory assures that local governments cannot avoid open meetings requirements by “paying an entity to perform government services.” Secret economic developments by “paying an entity to perform government services.” Secret economic development discussions will still be allowed to take place between a promotional association and a target corporation - just as long as that association is not taxpayer funded and not directly controlled by the local government.

The second case involved a woman named Sands who was fired from the Whitnall School District after a closed session was held. Although discussions held in closed session are not subject to public records requests, Sands’ legal team requested that the records be made available for discovery in her law suite against the School District. The District argued that it was protected from such discovery by virtue of Wis.Stat.s. 19.85 which relates to closed sessions.

The court held that there was no statutory privilege regarding discovery and a plaintiff’s right to information relevant to her case. In other words, she gets to see what they considered before terminating her, in order to challenge that decision.

In dissent, Justice Prosser feared that this would result in closed sessions being open not only to plaintiffs, but to “third-party organizations, deep-pocketed individual plaintiffs with political...agendas”, and so have a chilling effect on those deliberations.

So congratulations to us! The WBA spends quite a bit of time and money assuring that our rights as journalists to inform the public are not eroded away by sometimes well-meaning but over protective local officials. These victories go a long way toward keeping Wisconsin’s tradition of open government alive and well.