

Democrat 7-30-15

Fort Smith schools chief testifies in records case

Superintendent says board notified media

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FORT SMITH — The School District superintendent said during a Wednesday court hearing the School Board didn't violate the Arkansas Freedom of Information Act because proper notice was given to the news media the board was meeting June 23.

Superintendent Benny Gooden admitted during a Sebastian County Circuit Court hearing there was no notice by the board it was going to discuss doing away with the Southside High School rebel mascot and "Dixie" fight song.

Gooden testified for nearly two hours Wednesday in the hearing over the lawsuit filed July 23 by Fort Smith

attorney Joey McCutchen accusing the board of violating the Freedom of Information Act by not notifying the news media and the public the board would be discussing the mascot and fight song at the June 23 meeting.

Circuit Judge James O. Cox didn't rule on McCutchen's complaint Wednesday. He gave McCutchen and school attorney Mitch Llewellyn two weeks to take depositions from those involved and prepare further arguments for another, as yet unscheduled, hearing.

Six members of the seven-member School Board attended the meeting and voted as a committee of the whole to recommend the board vote at its regular

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Testimony

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meeting Monday to eliminate the fight song immediately and to phase out the rebel mascot by the start of the 2016-17 school year.

On Monday, before an audience of more than 200 people — many of whom spoke for and against the proposal during a public comment period — the School Board voted unanimously and without any discussion among themselves to change the mascot and fight song.

Under questioning Wednesday by McCutchen, Gooden said the notice sent to the news media about the special June 23 meeting noted it would be about the board's annual evaluation of the superintendent and most of the meeting would be closed to the public.

The Arkansas Freedom of Information Act allows for private, executive sessions only for the purpose of considering employment, appointment, promotion, demotion, discipline or resignation of any public officer or employee.

But Gooden said once the board gathered, a motion was made and passed by the five board members present to hold a committee-of-the-

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whole meeting. Board member David Hunton showed up 35 minutes later.

Gooden said he didn't know the board was going to hold such a meeting before the session started.

He added board policy allows a committee meeting to be called if board members agree to hold one, and he said the board isn't required to publicize agendas beforehand.

In response, McCutchen pointed to a board policy saying no business can be transacted unless it's listed in the purpose of the called meeting.

According to the minutes of the June 23 meeting, which the board voted to accept Monday, the committee-of-the-whole session began at 5:45 p.m. It lasted for 50 minutes, ending at 6:35 p.m., at which time the special meeting to evaluate Gooden began.

Although notice of the meeting went to several news organizations, Gooden said the only media representative to attend was a television reporter whose office received a tip from a board member the mascot and fight song were going to be discussed.

With only that report-

er present, board members discussed the high school mascot, the gist of which was the mascot had been an issue for years and it was probably something needing to be resolved, Gooden said. He said the board didn't treat the proposal to change the mascot as a knee-jerk reaction to recent events in the country.

Six days before the meeting, on June 17, a white man was arrested in the killing of nine black churchgoers in Charleston, S.C., and photographs surfaced of the man with a Confederate flag.

Gooden said the board understood the gravity of changing Southside's mascot. Board members agreed the change would be hard but it would benefit the community, he said.

The committee minutes state, in part: "Giving great consideration to the continuing impact of perceived symbols of racism on the community, state and nation, the Fort Smith Public School Board committee members discussed changing the Southside High School mascot and discontinuing the 'Dixie' fight song. Symbols associated with Southside High School have been a topic of discussion with the FSPS Board of Education since a resolution to study the use of these symbols passed in 1989."