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## [Throwing shade on the Sunshine Act. Again.](#)

Posted on [May 5, 2022](#) by [David Loomis](#)



White Township Stewardship Committee. (l to r) David Dahlheimer, Barbara Hauge, Matthew Klunk, Sierra Davis, Jeffrey Geesey. Photo: White Township [website](#)

*“If the facts are against you, argue the law. If the law is against you, argue the facts. If the law and the facts are against you, pound the table and yell like hell.”*

— [Carl A. Sandburg](#) (1878-1967), Pulitzer Prize-winning American poet, in [“The People, Yes”](#) (1936)

*An opinion*

By David Loomis

WHITE TOWNSHIP – Township supervisors aren't pounding and yelling yet. But with [facts](#) and the state's [Sunshine Act](#) against them in their relentless [quarter-century](#) quest to [log](#) the 250-acre [White's Woods recreational forest](#), the shouting could start soon.

Indeed, some preliminary shouting punctuated a midpoint of a nearly three-hour April 21 evening meeting of the supervisors' [Stewardship Committee](#), a citizen panel appointed to get pesky tree-huggers off the supervisors' backs. Debates over procedure and provisions of the Sunshine Act were eating up the committee's clock. During a lengthy debate over expert witnesses, one panel member lost his temper.

"We don't need to keep rehashing!" shouted member Jeffrey Geesey. "We've got to keep moving!"

He promptly calmed down and apologized for the outburst. But it may be a sign of debates to come in township officials' contentious White's Woods [logging crusade](#).

AT THEIR [April 27 meeting](#), for example, township supervisors spent more than 20 minutes discussing ways to skirt Pennsylvania's [Sunshine Act](#), which requires public officials to give prior notice to citizens so citizens can attend, participate and comment before officials take action. Official [audio](#) of the meeting recorded remarks among supervisors, the township manager, the township solicitor and other township officials.

Below are selected remarks paraphrased and annotated with commentary from Melissa Melewsy, [Pennsylvania NewsMedia Association](#) media law counsel, who after 16 years in her position can quote verbatim passages of the Sunshine Act. Ms. Melewsy commented on transcribed passages read to her in a May 4 phone interview, citing the law and its application to the facts:



Sandi Gillette, supervisor, White Township. Photo: Indiana Gazette

**Supervisor Sandi Gillette:** The Stewardship Committee is not an elected body. Sunshine laws don't apply to that, do they?

**Township Manager Chris Anderson:** Yes, they do.

**Pennsylvania NewsMedia Association media-law counsel Melissa Melewsky:** Correct. The Sunshine Act [defines an "agency"](#) as elected or appointed, no matter whether it gives advice or makes recommendations.



Ryan Fritz, solicitor, White Township, Pa. Photo: Delaney & Fritz

**Solicitor Ryan Fritz:** If you appoint a body with a more limited scope, to gather but not necessarily to process it – an information-gathering role that receives the words of others and merely hands that over — that would not constitute a public meeting.

**Melewsky:** They can call it anything they want. But they are discussing public policy. They can play with terminology. But whether they are gathering information or making recommendations, that's covered by the law. [Quoting [Section 703](#) of the Sunshine Act]: “An ‘agency’ includes all committees thereof authorized by the body to take official action or render advice on matters of agency business.”]

**Fritz** [Regarding committee members' correspondence by email]: The general fear is that, we can't talk to each other outside of meetings. Emails among a body with little authority like that are not going to yield official action. To allege that that constitutes official action is tenuous and weak. It's picky. A court of law will hear that, and they'll probably lose.

**Melewsky:** The Sunshine Act does not discuss emails specifically. But if there is deliberation among a [quorum](#) of the committee via any means, it is subject to the Sunshine Act. The [Office of Open Records](#) has granted access to emails that show quorum deliberation of agency business. A [Right to Know](#) request for emails or other electronic communications may be in order.



George E. Lenz, chairman, White Township Board of Supervisors. Photo: Indiana Gazette

**Board of Supervisors Chairman George Lenz:** There may be an element in our community that attempts to strike any and every thing to do with White's Woods. They're using whatever tools they have. It's such a weak group. The only element they have are the provisions of the Sunshine Law. They're hammering on that. That's all they're doing.

**Melewsky:** That's a fundamental misunderstanding of the law. It's not to make life easy for officials. That's the cost of democratic government. And the law does not allow intentionally

avoiding the Sunshine Act. That's [actionable](#). And what's the purpose? Because something's controversial? Agencies should not be working to avoid the law, whether it's the committee or the board itself.

THE TOWNSHIP BOARD cannot claim ignorance of the law. Supervisors have compiled a [record](#) of violating the spirit and the letter of the Sunshine Act, of [acting in secret](#) and of expressing support for [suppressing public opposition](#).

No wonder some citizens are skeptical of the motives of the supervisors and their Stewardship Committee. Public comments at the end of the nearly-three-hour April 21 committee meeting reflected the doubts:

"I hope the fix is not in," said Willard Radell, of White Township. "I hope that this isn't just a show committee for timbering. Leaving the forest alone – I hope that's on the table."

"It sounds like you're moving to executive sessions," said Tom Miller, of Indiana, a member of [Friends of White's Woods](#).

"The goal of this committee is to maximize public trust, not to avoid violations of the Sunshine Law," said Sara King, of White Township, president of Friends of White's Woods. "This committee serves the public, not the supervisors."

None of them pounded a table or yelled like hell.

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*David Loomis, Ph.D., emeritus professor of journalism at Indiana University of Pennsylvania, is editor of The HawkEye.*

*The HawkEye invites comments on this and other issues of community interest. Email [doloomis@live.iup.edu](mailto:doloomis@live.iup.edu) or click on the "contact us" drop-down menu, above.*