



Our Approach to the Law

Author : Mike Smith

Categories : [Public Service](#), [SOG News](#), [UNC-Chapel Hill](#)

Date : December 4, 2009





This morning the *Raleigh News & Observer* had [an interesting article](#) about the first meeting of the Wake County Board of Education with its new majority. The four new members had promised to make major changes if elected, such as ending busing for diversity and mandatory year-round schools. The new majority introduced those initiatives and several others right after they were sworn in on Tuesday, which caught some of the other board members by surprise. The initiatives were the result of a series of private meetings between the four new board members and a previous board member who was re-elected, and who on Tuesday was elected by the new majority to serve as chair.

Most of the article focused on whether the private meetings had violated the Open Meetings Law. I was struck by the comments of “one sunshine law expert,” and I found them jarring because they were so different from how we would respond (assuming she was quoted accurately). The person quoted was [Cathy Packer](#), who is “a media law professor at UNC-Chapel Hill.” According to the article, Packer said that the new board members probably didn’t violate the law because they weren’t in power before Tuesday. I know nothing about the law in this area, but it was her legal conclusion that they did not violate the law.

Here’s the interesting part for our purposes. “It’s sad,” said Cathy Packer. “They should be doing the public’s business out in the open. They were violating the spirit of the law.” What? Regardless of what we might think personally about whether the private meetings were a good



idea, I don't think one of our lawyer faculty members would go beyond offering an opinion about the legality of their actions. Packer clearly is advocating for the board members to do something that she didn't believe was required by the law. It may have been a bad idea for them to meet in private, and it may have a long-term negative impact on their ability to work effectively with the other board members.

Packer is not bound by our values about non-advocacy and she was within her rights to give her opinion. I am not writing this to be critical of her. If we took the same approach of mixing legal opinion with personal opinion, however, we would lose credibility as a place where you can receive objective legal advice. It would seriously undermine our ability to work effectively with public officials across a broad ideological spectrum, as opposed to those who just happen to like our point of view. This is what I was thinking about this morning over my oatmeal. For those who were at our event for David Lawrence on Monday, I couldn't help wondering "What Would David Say?" Maybe I'll send a blue WWDS bracelet to Professor Packer.