

THE TENNESSEAN

Why we should all embrace 'gadflies'



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Some "insults" should be embraced.

Like when government officials describe a citizen or citizen group as a "gadfly." You can almost see the spittle accompanying the syllables as they try to demean constituents seeking more transparency and better government.

Hurling the word is one thing, but it seems like City of Franklin officials went too far in their attempt to intimidate the advocacy group Harpeth River Watershed Association, as U.S. District Chief Judge Kevin Sharp noted when he dismissed the city's claim against the HRWA on Wednesday.

The HRWA sued the city in August 2014 to address environmental compliance for sewage discharge into the state scenic river. The city balked at the association's claims and declined to enter a settlement as two private sewage treatment companies had already done.

Those settlements required the companies to create a nutrient management plan, and to fund more in-depth studies of the river's water quality — each company is paying \$10,000 a year for four years to understand the dynamics of pollutants. Those studies are under way.

The City of Franklin, which uses the river for some of its potable water supply and to dump treated sewage, asserts that it is an admirable steward to the river and that HRWA is harassing the city.

The HRWA sued. The city countersued, asking the court to force the nonprofit to pay for damages, unspecified, and court costs, contending the group abused the legal process and was trying to "extort" the city into abiding by more stringent regulations than necessary.

The city has spent about \$300,000 with a Washington, D.C., law firm to fight the suit, and about \$500,000 overall on the suit, said City Administrator Eric Stuckey. That sure seems like a lot more than a potential settlement would have cost based on the two other settlements.

Sharp made short work of the city's claim, ruling from the bench, "Should you be filing a counterclaim instead of everybody working for clean water?"

Dorie Bolze, executive director of the HRWA, said her organization never wanted to sue the city, but could not ignore what seems to be happening to one

of Tennessee's most scenic rivers.

"Good policy is not created by embarrassing our public officials," Bolze said, "but the river needs advocates."

Stuckey said that the court's ruling on "one small element" of the case didn't change Franklin's position as an "outstanding" steward of the waterway forced to spend city money battling unfounded allegations.

"How can you fix issues that don't exist?" he said. "We still have not had any notice of violations by (the Tennessee Department of Environment and Conservation or the U.S. Environmental Protection Agency)."

Stuckey is correct that the city has not received any notifications of violations from TDEC, which has nominal authority over the quality of our environment. That's no surprise. The number of TDEC enforcement actions has declined from 231 in 2008 to 53 in 2014.

But Stuckey is stretching the facts to fit his narrative, instead of acting as a transparent steward of city government.

I looked at several TDEC compliance letters; most cited problems. For example, a July 9, 2013 letter noted several compliance issues, and said: "Please provide a written response to this office within 30 days of receipt of this letter with information stating how the violations and deficiencies found during the inspection have been or will be corrected, and completion dates for each item."

A December 2013 letter from the EPA also noted deficiencies that the city should address. The violations are probably relatively minor, but if so, why the "nuclear" response to a public advocacy group the city has lauded in the past?

It seems that too often our government officials are too quick to assume that questions and criticisms are intended as personal attacks instead of legitimate, or at least legitimately concerned, questions of policy and procedure.

Franklin is not alone in that behavior, yet the abusive tactics were not instituted by environmental gadflies but by overly sensitive city officials.

We should embrace our "gadflies," whose willingness to challenge power and confront government officials is essential, especially in a period where TDEC has seemingly walked away from its responsibility to protect our environment.

Thank you gadflies!

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