



United Counties Council of Illinois
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July 17, 2020

To: UCCI Membership

Re: County Rules of Order Relating to Committees

We have reviewed both the proposed language for the County's Rules of Order relating to committees and Attorney General Opinion S-647, cited by the County. Attorney General Scott, in S-647, opined that "a meeting of a committee of the county board that is properly closed to the public pursuant [to OMA] may not be closed to a member of the County Board who is not a member of the committee." However, the County also appears to rely on the reasoning in Attorney General Opinion 2000-04 for an exception to the rule. In Opinion 2000-04, Attorney General Ryan opines that "[l]ike any public officer who possesses a personal interest in the acts of the body which he serves, the clerk must necessarily withdraw from involvement in such matters." 2000 Ill. Atty. Gen. Op. 004 (2000). Though that opinion specifically dealt with a County Clerk and raised the particular conflict of a clerk who was adverse to the county in litigation, it is likely that the reasoning would extend to County Board Members with personal interests adverse to the interest of the County. Therefore, the County is prudent in developing rules for board member attendance, and participation, at committees where the member is not a member of the committee. Such rules will ensure predictable and consistent treatment of board members and clerks moving forward. In light of the sensitive nature and legal implications of excluding a county board member or county clerk from an open meeting of a County Board Committee, we offer the following indicated revisions to reflect the language used in Opinion 2000-04 and OMA and to ensure the State's Attorney is informed and involved in these critical decisions:

Executive Session [of Committees]

- i) Closed session requires approval by a majority of the quorum present.
- ii) Board members may attend and have access to minutes resulting from any open or closed meetings or sessions of committees of which they are not members, except when the Committee Chair, in consultation with the State's Attorney, unless impracticable, determines that a board member possesses a personal interest in the acts of the committee and/or has taken a position adversarial to that of the County in pending or probable or imminent litigation. ~~• Exception: The elected official was involved adversarially in possible litigation.~~

- iii) At the discretion of the Committee Chair during the meeting, the Board member may participate in the meeting but without voting or seating privileges.
- iv) The County Clerk, as ex-officio clerk of the board, shall participate in the meeting for the purpose of ~~making~~ keeping an accurate recording of the meeting for official storage. However, where the Committee Chair, in consultation with the State's Attorney, unless impracticable, determines that the County Clerk possesses a personal interest in the acts of the committee and/or has taken a position adversarial to that of the County in pending or probable or imminent litigation, a Deputy Clerk shall participate in the place of the County Clerk. If no Deputy Clerk is available who is not similarly excepted from participation, then the Chair shall appoint a member of the Committee to act as a recording secretary. ~~Exception: The County Clerk was involved adversarially in possible litigation.~~

At the request and direction of UCCI this opinion was prepared by:
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Herman G. Bodewes



Jason E. Brokaw