

Minutes of the Rules Subcommittee

The Rules Subcommittee of the Executive Committee of the McLean County Board met on Thursday, August 7, 2008, at 2:00 p.m. in Room 404, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Chairman Owens, Members Gordon, Nuckolls and Moss

Members Absent: None

Other Members
Present: None

Staff Present: Mr. John Zeunik, County Administrator; Ms. Judith LaCasse,
County Administrator's Assistant

Department Heads/
Elected Officials
Present: None

Chairman Owens called the meeting to order at 2:00 p.m.

Chairman Owens presented the Minutes of the March 25, 2008 Rules Sub-Committee Minutes for approval.

Motion by Nuckolls/Moss to approve the Minutes of the
March 25, 2008 Committee Meeting.
Motion carried.

Chairman Owens presented a request for approval of a Resolution of the McLean County Board approving and adopting an amendment to the *Rules of the County Board of McLean County*. Chairman Owens noted that there are two proposed additions to the Preamble and one amendment to Section 5.11-3, Appointment of Standing Committees. He indicated that the proposed additions to the Preamble relate to the recommendations made by Mr. Robert A. Kearney.

Chairman Owens advised that the two proposed additions to the Preamble of the *Rules of the County Board of McLean County* are as follows:

8. Be dedicated and act in accordance with the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of their fellow Board members, other elected officials and employees, and the public.

9. Handle all personnel matters that may come before the Board on the basis of merit so that fairness and impartiality govern a member's actions pertaining to all employment and personnel issues.

Mr. Gordon asked if Mr. Kearney's recommendations #3, #6 and #7 are currently found somewhere in the *County Board Rules*. Mr. Zeunik replied that they are not currently in the *Rules*. He stated that #3, #6 and #7 were the specific verbatim recommendations that came from Mr. Kearney.

Mr. Gordon asked if the three recommendations made by Mr. Kearney are incorporated into the two proposed additions to the Preamble. Mr. Zeunik replied that Mr. Kearney's recommendations have been integrated into the two additions (#8 and #9) to the Preamble. He stated that Mr. Eric Ruud, First Assistant State's Attorney and he felt that the Preamble was the appropriate placement for the ethical issues raised by Mr. Kearney. Mr. Zeunik indicated that the Preamble includes language about "handling County affairs with a deep sense of responsibility." He also referred to the following items in the Preamble:

"#3: Avoid participation in any action, which would result in a conflict of personal interest with County responsibility.

#4: Refrain from obtaining improper personal benefit with regard to public funds, equipment, property, or the services of employees.

#6: Refrain from accepting gifts, favors or promises of future benefit, which could tend to impair independence of judgment or action as a Board member.

#7: Refrain from considering ex parte communications involving matters where a public hearing is required according to law and when such consideration would interfere with the due process of law."

Mr. Zeunik advised that Mr. Kearney's recommendations went beyond what was already in the Preamble. He explained that he and Mr. Ruud attempted to draft language that was consistent with what is in the Preamble and, at the same time, addresses the three recommendations contained in Mr. Kearney's report.

Mr. Gordon referred to Mr. Kearney's Recommendation #6, which asks the question "...what does the Board see as its role in the community and what limitations does it impose on itself." Mr. Gordon asked if this question is addressed anywhere in the *Rules*. Mr. Zeunik replied that #8 attempts to answer that question.

Rules Subcommittee Meeting Minutes
August 7, 2008
Page Three

Mr. Moss noted that the message in the proposed #8 to the Preamble is similar to some of the existing Preamble, except for the reference to "personal relationships." He expressed concern with dictating how people perform in their personal relationships.

Mr. Gordon stated that the existing sections #1-7 of the Preamble, and, if adopted, #8-9, follow a clause that begins "...all members of McLean County Board shall..." He advised that Preambles have no legal force. Mr. Gordon stated that he believes Mr. Kearney's recommendations encouraged us to think about additions not to the *Rules* themselves, but to the Preamble. Mr. Gordon referred to his question to Mr. Zeunik earlier on whether any of this language currently exists in the *Rules* themselves. He stated that this is a way of suggesting that it is an extension of what, ideally, members of the County Board shall (as in should) do.

Mr. Gordon advised that he favors the general tone of the proposed additions to the Preamble.

Mr. Nuckolls asked if "personal relationship" refers to personal relationships with people affiliated with the County or with personal relationships, period. Chairman Owens interpreted it to mean relationships with County personnel. Mr. Gordon replied that the implication is rather vague.

Mr. Moss and Mr. Nuckolls expressed concern that the phrasing refers, literally, to all public and personal relationships. Mr. Gordon reminded the Committee that the Preamble is just a suggestion, not an edict or directive, and not a legally enforceable command. It just sets a tone.

Mr. Nuckolls noted that "personal relationship" can cover everything, including family, friends, roommates, clients, business partners, etc. Mr. Gordon stated that it is relationships in the most generic sense. He pointed out that the important phrase follows with "...in order that the member may merit the respect..." Mr. Moss recognized that interpretation of the tone, but felt it delves too deeply beyond the role of a County Board member. He added that what is done in the privacy of a Board member's home is private.

Mr. Zeunik recommended the following modification to #8:

"Be dedicated and act in accordance with the highest ideals of honor and integrity in all public and personal relationships arising from his/her responsibilities as a Board member in order that the member may merit the respect and confidence of their fellow Board members, other elected officials and employees, and the public.

Mr. Moss and Mr. Gordon concurred with the change.

There was additional discussion on the wording of #8 of the proposed addition to the Preamble. Mr. Moss suggested that the wording be changed to "...all public and personal relationships that are related to his/her responsibilities..."

Mr. Nuckolls asked what, in layman's terms, is the meaning of #8. Mr. Gordon replied that it is telling the County Board members to behave themselves with regard to relationships which are in some way connected to the responsibilities of Board members. He indicated that this is a generally stated expectation of the types of standards to follow.

Mr. Zeunik advised that this type of wording is necessary in a Preamble. He stated that the other option is to attempt to codify Mr. Kearney's recommendations in a legalistic sense within the *Rules* or by an Ordinance, which is a direction he did not believe Board members would want to go. The Committee concurred.

Mr. Moss asked what is the definition of the word "preamble." Mr. Gordon replied that it is something that comes first. Mr. Moss asked if it had any specific connotation to a written word or legal document. Mr. Gordon replied that a Preamble to a Constitution is not constitutional law, but it gives a clear signal as to what will follow.

Mr. Zeunik explained that many years ago, the addition of the Preamble in the *Rules of the County Board of McLean County* was a compromise that a previous Rules Subcommittee added at the suggestion of Mr. Ruud. He stated that, at that time, one of the members of the Rules Sub-Committee wanted to add very explicit language in the *Rules* pertaining to ethics. Another member of the Committee was uncomfortable with the suggestion and felt that it was not appropriate to add the language into the *Rules* (at that time, there was no State ethics law). Mr. Zeunik noted that a compromise was reached to add a Preamble to the *Rules* and enunciate a standard behavior to which Board members should aspire.

Mr. Nuckolls asked if the proposed #8 replaces #3 in the existing Preamble of the *Rules of the County Board*. Mr. Zeunik replied that #8 is to supplement #3. Chairman Owens stated that #8 and #9 are to be added to the existing seven points in the Preamble.

Mr. Gordon recommended that the three amendments to the *Rules* be considered separately.

Mr. Gordon moved that the Committee recommend adopting the proposed Paragraph #8 to the Preamble, which would include the wording suggested by Mr. Zeunik, so that the second line would read "...integrity in all public and person relationships arising from his/her responsibilities as a Board member, in order that the member..."

Motion by Gordon/Moss to Recommend Approval to adopt the proposed paragraph #8 to the Preamble, which would include the following wording: "Be dedicated and act in accordance with the highest ideals of honor and integrity in all public and personal relationships rising from his/her responsibilities as a board member, in order that the member may merit the respect and confidence of their fellow Board members, other elected officials and employees, and the public."

Mr. Nuckolls asked if paragraph #8 deals with personal relationships, including dating. Mr. Moss replied that it would not deal with dating because of the phrase recommended by Mr. Zeunik, namely "...rising from his/her responsibilities as a board member..." Mr. Nuckolls asked what would the statement affect. Mr. Zeunik replied that Paragraph #8 refers to a Board member who might use or try to use his or her position as a Board member to gain or pursue a personal relationship with another County employee or a contractor who works for the County.

Mr. Gordon suggested that the phrase "...arising from his/her responsibilities..." be changed to "...related to his/her responsibilities..." Mr. Zeunik indicated Mr. Moss made a suggestion earlier to change the phrase to read "...in all public and personal relationships that are related to his/her responsibilities..."

Mr. Gordon asked Mr. Moss if he would be more comfortable with the wording "...in all public and personal relationships that are related to his/her responsibilities..." Mr. Moss replied that he would. Mr. Gordon stated that he believes it would allow the Board and the staff to have a sharper focus on what we are trying to say.

Mr. Gordon who made the motion and Mr. Moss who seconded the motion stated that they would like to change the pending motion, as follows:

Motion by Gordon/Moss to Recommend Approval to adopt the proposed paragraph #8 to the Preamble, which would include the following wording: "Be dedicated and act in accordance with the highest ideals of honor and integrity in all public and personal relationships that are related to his/her responsibilities as a board member, in order that the member may merit the respect and confidence of their fellow Board members, other elected officials and employees, and the public."

Motion carried.

Chairman Owens indicated that addition #9 to the Preamble of the *Rules of the County Board of McLean County* is as follows:

9. Handle all personnel matters that may come before the Board on the basis of merit so that fairness and impartiality govern a member's actions pertaining to all employment and personnel issues.

Mr. Gordon asked how many individual personnel matters come before the Board or is this meant to apply to personnel matters across the board. Mr. Nuckolls asked that "all employment and personnel issues" be defined. Mr. Zeunik replied that the phrase refers to both specific personnel issues and the broader issue of personnel. He noted that the specific issue would deal more with the Finance Committee than other Committees. The Finance Committee deals with specific requests, such as, when a Department Head or Elected Official needs to be able to offer a salary that is greater than what the Board's Personnel policy allows. Mr. Zeunik added that it addresses the question of whether or not all Department Head and Elected Official are being treated the same, with fairness and impartiality or does the Finance Committee show favoritism towards one department over another. Mr. Zeunik indicated that the broader issue deals with specific positions in County government where the appointment is made by the Chairman with the advice and consent of the Board, such as the County Highway Engineer, Supervisor of Assessments, County Administrator, or a vacancy on the Board or in a County-wide elected office.

Mr. Gordon summarized that all personnel matters, indirectly, come before the Board. Mr. Zeunik stated that the Board approves the Personnel Ordinance, the Compensation Plan, etc.

Motion by Nuckolls/Moss to Recommend Approval to adopt the proposed paragraph #9 to the Preamble, which would include the following wording: "Handle all personnel matters that may come before the Board on the basis of merit so that fairness and impartiality govern a member's actions pertaining to all employment and personnel issues."
Motion carried.

Chairman Owens stated the final amendment refers to Section 5.11-3 of the *Rules of the County Board of McLean County*. He indicated that this is to clarify who serves as the Temporary Chairman of a Standing Committee in the absence of the Chairman and the Vice Chairman. Mr. Zeunik stated that, in most cases, when the Chairman recommends the Standing Committee appointments, the person named third is the most senior person on that committee.

Motion by Moss/Nuckolls to Recommend Approval to amend Section 5.11-3 as follows: Section 5.11-3 Appointment of Standing Committees: The Chairman shall appoint the members of all standing committees not later than the December Board meeting in each year in which Board elections are held, subject to approval by the members of the Board. Members of standing committees shall serve for two years. The first member named shall be Chairman and the second named shall be Vice Chairman. The third named shall serve as Temporary Chairman in the absence of the Chairman and Vice Chairman.
Motion carried.

Chairman Owens asked if there were any additional questions or comments. There were none.

There being nothing further to come before the Committee at this time, Chairman Owens adjourned the meeting at 2:45 p.m.

Respectfully submitted,

Judith A. LaCasse
Recording Secretary