

Minutes of the Rules Subcommittee

The Rules Subcommittee of the Executive Committee of the McLean County Board met on Tuesday, February 6, 2007, at 3:00 p.m. in Room 404, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Chairman Sorensen, Members Gordon, Renner and Selzer

Members Absent: None

Other Members
Present: None

Staff Present: Mr. John M. Zeunik, County Administrator;
Ms. Judith LaCasse, County Administrator's Assistant
Mr. Eric Ruud, Assistant State's Attorney

Department Heads/
Elected Officials
Present: None

Chairman Sorensen called the meeting to order at 3:00 p.m.

Chairman Sorensen opened the meeting for consideration, discussion and action regarding proposed amendments to The Rules of the County Board of McLean County.

Chairman Sorensen presented the first item, namely a request for approval of a Resolution to amend the Rules of the County Board of McLean County to consider Remote Attendance. This amendment would change the "Rules" as follows:

- That in Section 5.12, a new Section 5.12-01 be added as follows: "The term 'meeting' as used in any existing rules, ordinances, resolutions, agendas and minutes shall mean any gathering, whether in person or by video or audio conference, telephone calls, electronic means (such as, without limitation, electronic mail, electronic chat and instant messaging) or other means of contemporaneous interactive communication, of a majority of a quorum of the members of the county board, its committees or subcommittees for the purpose of discussing public business." The following changes will also be included in the change:
- That a new section, 5.20 Remote Attendance Policy shall be add as detailed on the proposed Resolution;
- That Section 5.20 shall be re-numbered 5.21;
- That Section 5.21, 5.21-1 and 5.21-2 shall be re-numbered 5.22, 5.22-1 and 5.22-2 respectively;

- That Section 5.22 be shall re-numbered 5.23;
- That Section 5.23 shall be re-numbered 5.24;
- That Section 5.24 be shall re-number 5.25;
- That in the former Section 5.24 Effective Date, the date "2006" shall be deleted and replaced with "2008;"
- That in the "ADOPTED" clause, delete "15th" and replace with 4th", delete "March, 2005" and replace with "December, 2006."

Mr. Selzer asked if the section "A quorum of the McLean County Board, the committee or sub-committee, as they case may be, is physically present" means that a quorum must exist in person before a member can attend from a remote location. Mr. Ruud replied that this requirement is a State law. Mr. Selzer stated that if that is the case, it does not serve any purpose. He expressed his hope that eventually technology can be used to call in to make a quorum and not just to allow a member to sit in on the meeting.

Mr. Ruud advised that Public Act 94-1058, amending the Illinois Open Meetings Act, took effect on January 1, 2007, and amends the definition of a "meeting" and permits attendance of members of a public body at public meetings by a means other than physical presence. However, there must first be a quorum in attendance. He added that he was surprised it passed.

Mr. Selzer reiterated that he believes using telephonic attendance at a meeting should be allowed, even to make a quorum. He sited the bad weather that we had today as an example.

Mr. Moss asked how would one participate via internet. Mr. Ruud replied that internet would mean using a chat room, which is a logistical issue because it would mean people would by typing information and receiving information. Mr. Selzer noted that you could use a web-cam.

Chairman Sorensen advised that there are some issues he would like to see added, including:

- Provision that you could never chair a meeting from a remote location;
- Committee members who are present can decide whether or not a non-present member can participate on a meeting by meeting basis.

Mr. Selzer disagreed, noting that in his business, full Board meetings are held electronically on-line. Chairman Sorensen expressed his concern that when several members attend a meeting electronically, the focus of the meeting becomes the

telephone because people cannot hear what is going on, etc. He noted that if everyone is remote as Mr. Selzer indicated, perhaps that would not be an issue.

Mr. Gordon expressed his preference of having everyone present at a meeting. He asked what would be a good excuse not to be present at a meeting. Mr. Selzer noted that it was defined in the proposal as: personal illness, employment purposes, and business of the County. Mr. Gordon asked why, with these specific guidelines, is it necessary to have members physically present at the meeting vote on whether or not the absent member may participate by phone. Mr. Ruud stated that it is a question of interpretation. Chairman Sorensen stated that he might call into question the emergency excuse or employment excuse and whether it is legitimate.

Mr. Selzer pointed out that university degrees can be obtained via the internet. He further noted that this could open up the County Board membership to people who might not be able to attend meetings, such as stay-at-home moms. Mr. Selzer reiterated that he would like to see telephonic or electronic attendance become the norm.

Mr. Gordon suggested if this proposal is approved, he would hope the Board would identify abuses to the rules and take steps to discontinue the policy or find ways to stop the abuses.

Mr. Moss expressed his concern with the internet access to the meeting. He asked if a Committee chair, such as Mr. Gordon, cannot attend the County Board meeting, can he still call in and present his Committee report. Chairman Sorensen replied that he does not believe a Committee or the Board can be chaired by a speaker phone, but to participate in the meetings and present reports would be acceptable.

The Rules Subcommittee recessed at 3:27 p.m. to move to Room 400.

The Rules Subcommittee reconvened at 3:28 p.m. in Room 400.

Chairman Sorensen advised that the original version of the State law had a limit on the number of times a given member could use remote attendance during a calendar year. Mr. Gordon suggested it be added back into the law.

Chairman Sorensen reminded the Committee that they do not have to respond to this proposal at all. It is simply being brought to the attention of the Rules Subcommittee because there is now a State law that says we can choose to make this or any portion of it available to the Board.

Mr. Gordon asked if there were any budget implications with approving this proposal. Chairman Sorensen replied that it would probably take some equipment, such as speaker phones.

Mr. Ruud added that the Illinois Open Meetings Act must also be considered. If there is a remote attendee, whatever method is going to be used by the Committee or the Board, must also be made available for members of the public. He noted that this could add to the expense of equipment.

Mr. Selzer once again repeated his frustration that County Government appears to be "behind the times" in the use of technology.

Chairman Sorensen asked what are the wishes of the Committee in forwarding this proposal on to the Executive Committee. He expressed his reluctance to using staff resources to find the right technology to make this work if the Committee isn't interested.

Mr. Moss stated that it is likely that remote attendance will probably be telephonic and not through the internet. He indicated that it will take a lot of effort to make this work.

Mr. Gordon admitted that he is not comfortable with some of the new technology, but he would be willing to consider the possibility of remote attendance. He would like to see a limit be put on the number of times a member can take advantage of the remote attendance.

Mr. Moss asked if it is adopted, can the Committee specify the type of technology that is allowable for remote attendance. For instance, can the Committee prohibit internet access and only allow telephone attendance. Mr. Ruud responded he is correct that the Committee has the authority to determine what medium can be used for remote attendance.

Chairman Sorensen summed up the three issues that he believes need to be resolved:

- Remote attendance can only be done via telephone;
- Need to determine the number of times a member can exercise his right to use remote attendance;
- Chairman of a Committee, Subcommittee or Board cannot conduct a meeting via conference call, but must be physically present.

Chairman Sorensen asked if the Committee would like to have Mr. Ruud make these changes and reconvene the Committee next month to reconsider the proposal.

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Mr. Selzer stated that he did not think a limit should be set on how many times a member can use remote attendance.

Mr. Zeunik advised the Committee that a member cannot employ remote attendance for Executive Session or closed meetings.

After additional discussion, the Committee members concurred that they would like to have the proposal advance to the Executive Committee as a discussion item.

Chairman Sorensen advised that he will ask the Administrator's Office to craft a cover memo on the topic articulating that an example of a proposal regarding remote attendance was prepared by Mr. Eric Ruud, First Assistant State's Attorney, that the Rules Subcommittee had a lengthy discussion on three main issues, and the Rules Subcommittee is seeking feedback and insights from the Executive Committee on their feelings on the topic.

Chairman Sorensen presented a request to amend the Rules of the County Board of McLean County to consider Ex parte Communications. This Rule would be added as Number 7 under the Preamble, stating: "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."

Chairman Sorensen explained that this is an addition to the Preamble of the Rules.

Mr. Selzer expressed some concern regarding having this issue specifically stated in the Rules in terms of possible criminal problems if Board members continue to accept ex parte communication. He stated that it is important that Board members clearly understand that, as an elected official, citizens do not have the right to contact them in matters of zoning when they sit as a quasi-judicial body. Mr. Selzer indicated that he supports this addition to the Preamble.

Motion by Selzer/Gordon to recommend approval of a Resolution to Amend the Rules of the County Board of McLean County to add a statement on Ex Parte Communications to the Preamble.
Motion carried.

Chairman Sorensen presented a request of a Resolution to amend the Rules of the County Board of McLean County to consider Absence and/or Incapacity of the Chairman of the County Board. This Amendment would add a new paragraph 5.11-8 Absence and/or Incapacity of the Chairman of the County Board, as detailed in the Resolution.

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Chairman Sorensen stated that this rule was substantially simplified by Mr. Ruud. He also advised that the State does not recognize that the County's current Rules give the Vice Chairman of the Board, in the absence of the Chairman, the authority to sign requests for pay vouchers to the State for reimbursement to the County. It was necessary recently to Federal Express items to Chairman Sweeney for his signature because they would not allow the Vice Chairman to sign the documents.

Mr. Ruud read the rule as follows:

"In case of the absence of the Chairman or at the request of the Chairman, the Vice Chairman shall serve as the Chairman at meetings of the Board and Executive Committee."

Mr. Ruud then read the rule with the changes, as follows:

"In case of the absence of the Chairman or at the request of the Chairman, the Vice Chairman shall assume the duties and responsibilities of the Chairman on an interim basis, during which time the Vice Chairman shall have all of the powers and duties of the Chairman including the authority to execute and sign on behalf of the County all Ordinances, Resolutions, Intergovernmental Agreements, Contracts and any other legal instruments approved by the County Board."

Motion by Selzer/Gordon to recommend approval to Amend the Rules of the County Board of McLean County to Consider Absence and/or Incapacity of the Chairman of the County Board as amended.
Motion carried.

Chairman Sorensen presented a final request for approval of the Resolution of Rules of the County Board of McLean County as amended, to include all of the changes noted above. He noted that a copy of the current Rules of the County Board of McLean County is included in the Rules Sub-Committee Agenda Packet.

Motion by Selzer/Moss to recommend approval of the changes to The Rules of the County Board of McLean County as amended.
Motion carried.

Chairman Sorensen advised that Board Chairman Sweeney asked that the Rules Committee address the topic on how constituents are communicated with when they send a letter to a Board member that could be considered ex parte communication.

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Chairman Sorensen recommended that the Administrator's Office institute a courtesy mail service for Board members to drop off their letters and clerical staff could send back a form letter explaining why the member is not communicating directly and to thank them for their interest. Mr. Selzer suggested that it would be appropriate to forward e-mails to the Administrator's office as well.

Member of the Committee concurred that this would be suitable to investigate.

Chairman Sorensen informed the Committee that the recommendations approved by the Rules Subcommittee will go to the Executive Committee on February 13, 2007.

There being nothing further to come before the Committee at this time, Chairman Sorensen adjourned the meeting at 4:02 p.m.

Respectfully submitted,

Judith A. LaCasse
Recording Secretary

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