

Kirk Allen

From: Kirk Allen <KAllen@1ststriketech.com>
Sent: Saturday, April 13, 2013 8:46 AM
To: 'Scott.Lackey@illinois.gov' (Scott.Lackey@illinois.gov); 'Chris.Greenson@illinois.gov' (Chris.Greenson@illinois.gov); Winberg, William D. (William.Winberg@Illinois.gov); lance.jones@illinois.gov
Cc: Chapin Rose (cr@chapinrose.net); 'statt@edgarcountyillinois.com' (statt@edgarcountyillinois.com); 'voigtjeff3@aol.com'; Aaron Lawson (alawson@edgarcountyhighway.org); john@heirloomvideography.net; disclosurenewsonline@yahoo.com
Subject: Can ANYONE explain how you get around this?
Attachments: Participation Resolution for Patrick.pdf; Signature of Vice Chair Resolution.pdf

Gentlemen,

I believe the actions being taken to isolate Mr. Patrick from a conflict of interest, or a potential conflict of interest is treading on dangerous grounds as it relates to our constitution and the powers and duties of our elected officials.

It is undisputable that elected officials only have the powers granted by law and county ordinance. An ordinance becomes LAW upon completion of the required steps outlined by county statute. The county code has numerous powers to establish an ordinance and in some cases even outline that an ordinance OR a resolution can be passed. For example: **(55 ILCS 5/3-5027) In counties with a population of less than 1,000,000, the recorder, pursuant to ordinance or resolution of the county board, may establish a permanent real estate index number system.**

However, if the law is silent on a matter you cannot create your own rules.

It is undisputable that there is no statute that allows the drafting of a resolution to restrict elected officials from performing their obligatory duties. The County Chairman, regardless of who that person is, **shall have those duties and powers provided by law** and I do not believe it is constitutional or legal to draft a resolution restricting those obligations of an elected official! In the case of the first resolution, a duly elected official is being restricted from participating in the very matters he was elected to perform. I believe that violates the spirit of the law as well as our Constitution. Creating a resolution to shield a person from a conflict or potential conflict is not a power or duty established by law. In fact, the spirit of the law, as well as case law, points to the statutes on prohibited acts and they are in place to prevent the conflict before it happens.

In regards to the second resolution, it stipulates who the county engineer is to report to. The statute is very clear who the county engineer is to report to and specifically states he is under the supervision of the County **BOARD**. This second resolution removes a person from that supervision role as a means to isolate a conflict issue and I believe that action is not supported by law. I believe the passing of a resolution restricting an elected officials statutorily provided duties violates our constitution and the very intent of our laws.

Powers and duties cannot be changed by resolutions! The decisions of the county board are subject to judicial review under the Administrative Review Law and I believe steps should be taken on this matter for such a review.

The use of resolutions in this fashion creates more concerns as well, such as who is to police that these resolutions are followed? Where does the authority come from for such policing and what are the ramifications when violated?

For these reasons outlined, I believe allowing such resolutions to play a role in our system of government changes the intent of our Constitution and violate the most basic understanding of common law.

I respectfully ask that you not accept those resolutions as a fix to the issue in Edgar County as it relates to the Conflict of Interest Mr. Patrick is faced with. Accepting them as a solution to a problem circumvents the very obligations they have established by law.

Sincerely,

Kirk Allen

Illinois Constitution
ARTICLE VII
LOCAL GOVERNMENT
SECTION 4. COUNTY OFFICERS

a) Any county may elect a **chief executive officer** as provided by law. He **shall have those duties and powers provided by law** and those provided by county ordinance.

(d) County officers shall have those duties, powers and functions provided by law and those provided by county ordinance. County officers shall have the duties, powers or functions derived from common law or historical precedent unless altered by law or county ordinance.