

From: Kirk Allen
Sent: Wednesday, March 3, 2021 10:55 AM
To: Sanchez, Lidia <LSanchez@atg.state.il.us>
Subject: RE: PAC 66874

Ms. Lim,

Please consider this communication my response to the Shelby County State's Attorney's response to the applicable request for review.

I totally agree with many of the assertions represented by the State's Attorney and the lack of appropriate procedures in Shelby County. The prior State's Attorney was nothing more than a paperweight who did nothing to ensure even the most basic of compliance was met by County officials. We appreciate the massive numbers of problems Mrs. Kroncke must deal with in trying to bring some sense of compliance to numerous county matters to include coming up to speed on local government obligations.

Mrs. Kroncke makes reference to [EO 2020-07](#) and then states it was reissued through the date of December 12, 2020. While we understand numerous EO's were issued, the language found in the EO's must be applied.

[EO-2020-39](#) does reissue elements of EO-2020-07. Specifically, "***Section 6 of Executive Order 2020-07, as amended by Executive Order 2020-33, is re-issued and extended through June 27, 2020, or until corresponding legislation (SB 2135) is enacted and takes effect, whichever occurs first.***"

SB 2135 was adopted and became [Public Act 101-0640](#) on 6-12-2020 and the applicable OMA changes were effective 6/12/2020 which is well before the meeting in question held December 7, 2020.

[EO 2020-71](#) extends [EO 2020-07](#) as amended by [Executive Order 2020-33](#) and [Executive Order 2020-44](#), is re-issued and extended through December 12, 2020. Looking at [EO-2020-39](#), it is clear that EO changed the applicable portions of [EO-2020-33](#). The amended order in 2020-33 predates EO 2020-39 that points to SB2135 that outlines the EO is only applicable until corresponding legislation is enacted and takes effect, which it did before December 7, 2020. [EO 2020-44](#) provided guidance related to OMA but that guidance had nothing to do with attendance of members in a public meeting.

[From EO 2020-44](#) – "*Public bodies, including those listed specifically above, are encouraged to ensure that at least one member is physically present at the location of the meeting if others are attending telephonically or electronically. Public bodies must take steps to provide video, audio, and/or telephonic access to meetings to ensure members of the public may monitor the meeting, and to update their websites and social media feeds to keep the public fully apprised of any modifications to their meeting schedules or the format of their meetings due to COVID-19, as well their activities relating to COVID-19.*"

Even if an EO was in place on this matter, no provision in the Emergency Management Agency Act gives the Governor power to suspend the Open Meetings Act, a law enacted by the General Assembly.

In regards to the response about section 7(c), my request for review dealt with the attendance by other means. While I appreciate the State's attorney discussing the issue of voting, section 7(c) pertains to attendance by other means. Why she points out "*Remote voting is not addressed within the rules*", that misses the point. There is no policy for attendance by other means found in the Shelby County records and this was confirmed by the States Attorney during the meeting. The fact there are no remote voting rules of the County Board has nothing to do with section 7(c).

In regards to the response about section 7(e), it confirms all the required criteria were not met. While an argument can be made that the presiding officer of the meeting in question was the County Clerk, there was no declaration by the County Clerk as outlined in section 7(c)(2) and the SA confirms that requirement was not met.

I believe the response as a whole helps to confirm the Shelby County Board permitted a member to attend by phone in violation of the Open Meetings act. There were no rules for such attendance and the adopted law was in effect which established specific guidelines for such attendance and those were not met.

For the above reasons I ask the PAC to issue a Binding Opinion on this matter as it appears this is the first time this particular matter has been addressed by the PAC. This is confirmed through a prior FOIA on this point that resulted in no records on this point.

Thanks
Kirk Allen