

Special  
WASHINGTON COUNTY BOARD MEETING  
Tuesday, June 30, 2020  
7:00 P.M.

PRAYER AND PLEDGE  
CALL TO ORDER  
ROLL CALL  
ACKNOWLEDMENT OF GUESTS

1. C-19 Covid
2. F.O.P. Labor Negotiations – Executive Session
3. Personnel – Sheriff’s Department – Executive Session

**\*\*\*OPPORTUNITY FOR THE GENERAL PUBLIC TO ADDRESS THE BOARD\*\*\***

## OFFICIAL PROCEEDINGS

### WASHINGTON COUNTY SPECIAL COUNTY BOARD MEETING

JUNE 30, 2020

The reconvened and adjourned meeting of the County Board of Washington County, Illinois was held at the Washington County Courthouse in Nashville, Illinois on June 30, 2020 for the purpose of addressing the COVID-19, FOP Labor Negotiations and Personnel – Sheriff's Department.

Present and presiding were Chairman Meyer and Shari Hempen, Deputy County Clerk and Clerk of the Board.

Following the Lord's Prayer and the Pledge of Allegiance, Chairman Meyer called the meeting of the Washington County Board to order at 7:05 p.m.

Roll call was taken by Deputy Clerk Hempen with 13 members present. Those present at the meeting were, Meyer, Brammeier, Suedmeyer, Shemonic, Todd, Hohlt, Bening, Shubert, Unverfehrt, Lamczyk, Muentner, Barczewski and Small. Absent was Ibendahl & Klingenberg.

Guest present was Matt Bierman, Dan Bronke, Sheriff Campbell, Elizabeth Lehde, Leah Williams – Nashville News and Debbie Stricker – Okawville Times.

Lehde, Health Department Administrator addressed the Board concerning Covid updates. She reported there have been no new cases since the June Meeting. There have been 714 negative cases and we have moved into phase 4. You can find the does and don'ts that is specific to each county on a website. If the numbers continue to stay managed the maximum people of 50 will increase.

Bierman, EMA administrator addressed the Board about Covid. The PA grant turned into a rolling grant, with a 25/75 split so we are expecting approximately \$40,000.00 on the first go around. The employees furlough will not be counted toward the grant money. We will continue screenings at the front door and continue to follow the IDPH and the IPMG guidelines. (See Exhibit A). Every Monday there will be an updated list of hotspots, if you have traveled to any of the hot spots you will not be allowed past the front door. The travel policy can't mandate self-isolation, but if an employee travels to a hot spot they should have to use their time off to quarantine when they return. Bierman stated we really need some kind of policy to address this issue about vacationing at a hot spot and then returning to work, employees should be asked to stay home for a period of 14 days. Todd asked Bronke if that was a legal issue. Meyer stated it was discussed at Finance Committee meeting and they are going to follow the IPMG guidelines.

A motion was made by Brammeier and seconded by Muentner to enter into executive session under 2-c-2 = Collective Bargaining, and ask that the State's Attorney and Sheriff to remain in the closed session. Roll call vote was taken with 13 ayes and 0 nays. Motion carried. Entered into executive session at 7:20 p.m.

Open session at 7:50 p.m.

A motion was made by Suedmeyer and seconded by Hohlt to allow the Sheriff legal counsel on behalf of the County Board and to settle grievance with the Sheriff's former employee McDaniel. Motion carried.

A motion was made by Todd and seconded by Bening to adjourn the meeting. Motion carried. Meeting adjourned at 8:00 p.m.

# OKGC

O'HALLORAN KOSOFF  
GEITNER & COOK, LLC

ATTORNEYS AT LAW

## MEMORANDUM ON THE AUTHORITY OF ILLINOIS PUBLIC ENTITIES TO ENACT RE-OPENING PLANS LESS RESTRICTIVE THAN THE GOVERNOR'S IN CONNECTION WITH COVID-19 AND POTENTIAL INSURANCE COVERAGE ISSUE ARISING AS A RESULT

To: ICRMT Members

From: O'Halloran Kosoff Geitner & Cook, LLC  
Clifford Kosoff ([ckosoff@okgc.com](mailto:ckosoff@okgc.com))

Date: May 12, 2020

Several ICRMT members have inquired whether authority exists under Illinois law to allow them to enact reopening plans which are less restrictive than the plan recently issued by Governor Pritzker. We are not currently aware of any such authority permitting this. Further a member may jeopardize coverage by enacting a less restrictive reopening plan.

### I. LACK OF AUTHORITY TO ENACT LESS RESTRICTIVE REOPENING PLANS.

On May 7, 2020, the Governor laid out a five phase regional plan for reopening Illinois. The plan divides the State into four regions: northeast Illinois, north central Illinois, central Illinois and southern Illinois, each of which could enter different phases of reopening at different times under the plan. The phases and reopenings will depend on the regions meeting certain metrics, which at this point are unclear. It is expected that the ultimate plan adopted by the Governor will be subject to an Executive Order pursuant to the series of Executive Orders in Response to Covid-19 issued by the Governor ("Governor's Executive Orders").

If an ICRMT public entity member only intends to present its reopening plan to the Governor as a means of persuading the Governor to enact less restrictive measures against the member, then an analysis of whether the member's plan is contrary to State law is not needed. (Certainly, a public entity can offer input to the Governor as to what should be considered when implementing his plan to reopen the State. In doing so, it would be a good idea for a public entity to consult with its local health department and hospitals to ensure that the suggestions offered make sense in the context of the number of cases being reported locally.) However, if a public entity intends to enact its plan by ordinance or otherwise then its authority to do so under Illinois law is certainly an issue.

---

*This memorandum was prepared by O'Halloran Kosoff Geitner & Cook, LLC on May 12, 2020 for ICRMT general informational purposes only. The discussion herein may be impacted by subsequent federal or state statutes, rules, regulations or guidelines as well as court decisions. It is not intended to provide legal advice to any public entity. Member entities and their officials and employees should consult their State's Attorney, Corporation Counsel, or other appropriate legal advisor on the subject matter of this memorandum before taking or refraining from taking any action or adopting any plan or policy.*

"A"

Our initial thought is that if a public entity tries to implement restrictions which end up being less restrictive than those ultimately imposed by the Governor's plan, a public entity adopting that plan would likely face a challenge asserting that the public entity does not have the lawful authority to enact such restrictions contrary to those contained in the then current Governor's Executive Order. The authority of the Governor to issue his Executive Orders is primarily based on the Illinois Constitution and Sections 7(1), 7(2), 7(3), 7(8), 7(9), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305 ("IEMAA"). We are aware of no provision in the Illinois Constitution or IEMAA which would allow an Illinois public entity to enact a Covid-19 reopening plan which is contrary to that issued by the Governor. If a public entity chooses not to enforce all or part of the actual restrictions ultimately adopted by the Governor's plan through the Governor's Executive Order, its liability for doing so is unclear. Several immunities under the Illinois Tort Immunity Act (745 ILCS 10/1-101 et seq.) and Constitutional defenses may apply. But we do question whether any public entity has the lawful authority to enact restrictions that may contradict the Governor's Plan as ultimately implemented through Executive Order pursuant to the IEMAA. (It must be noted that while the validity of the Governor's Executive Orders is currently being subject to legal challenge, this memorandum accepts those orders to be valid and legal unless and until a court with ultimate authority declares that they are not.)

## II. POTENTIAL ICRMT INSURANCE COVERAGE ISSUE CREATED BY A MEMBER'S AFFIRMATIVE ENACTMENT, ADOPTION OR PROMOTION OF A LESS RESTRICTIVE REOPENING PLAN.

The ICRMT understands and appreciates each member's discretionary decisions regarding its manner of enforcement of the Governor's Executive Orders related to Covid-19 by its officials and employees. However, each member needs to consider the potential risks it assumes in the event that it **enacts, adopts, affirms or actively or implicitly promotes** a reopening plan or set of reopening guidelines that may be in conflict with the Governor's then current Executive Order. General Exclusion 8(c) of the ICRMT liability coverage form excludes coverage for the following claims:

Claims arising from:

- (c) Acts or omissions by an Insured who knowingly violated a rule, regulation, ordinance, or law of the Insured or the State of Illinois or of the United States;

ICRMT members should be aware that claims arising from any such acts or omissions in connection with their decisions to enact, adopt, affirm or actively or implicitly promote a less restrictive reopening plan than that contained in the Governor's Executive Order then in effect may jeopardize their ICRMT coverage.