

MINUTES
MISSISSIPPI MANAGEMENT AND REPORTING SYSTEM
STEERING COMMITTEE MEETING
April 13, 1993

The meeting of the Mississippi Management and Reporting System (MMRS) Steering Committee was held at 3:00 p.m., in the conference room of the Department of Finance and Administration, 550 High Street, 901 Walter Sillers Building, Jackson, Mississippi on Tuesday, April 13, 1993.

The following members were present, constituting a quorum:

Edward L. Ranck, Chairman and Executive Director of Finance
and Administration
Frank Stebbins, Executive Director, Central Data Processing
Authority
Larry Gregory, Interim Director, State Personnel Board

Also present:

John Ruffin, Central Data Processing Authority
David Litchliter, Central Data Processing Authority
Lynda Babin, Central Data Processing Authority
Cathy Howard, State Personnel Board
John Runnels, Special Assistant Attorney General
Janna Peeples, Finance and Administration

The meeting was called to order by Dr. Ranck. The first order of business was to elect a chairman. Upon motion by Mr. Stebbins, seconded by Mr. Gregory, Dr. Ranck, who was serving as chairman prior to the passage of House Bill 1334, was elected to continue serving as chairman with the term of office being "until replaced."

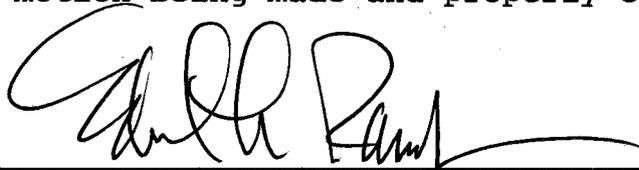
Upon motion by Mr. Stebbins, seconded by Mr. Gregory, the Committee voted to go into an executive session in accordance with Section 25-41-7, Miss. Code, Ann. (1972), on a personnel matter. (see attachment)

The Committee returned to open session and announced the results of the vote taken in executive session, whereby the Committee voted to contract with the Department of Finance and Administration to secure the services of Pery Winegarden, to be the Director of the MMRS project. Mr. Winegarden will be an employee of the Department of Finance and Administration, and will exercise general executive responsibilities and be the representative of the Committee in carrying out all facets of the project. Mr. Winegarden will report directly to the Chairman for

assignments while having responsibilities to the Committee. The Chairman indicated that he would try to have the contract between the Department of Finance and Administration and the Steering Committee ready by May 1.

The Chairman called for a Steering Committee meeting on Tuesday, April 20, 1993 at 2:00 p.m. in the conference room of the Department of Finance and Administration, 901 Walter Sillers Building, to resolve pending technical matters related to all three agencies. He requested all agenda information be submitted by noon April 19. The Chairman stated he would have Mr. Winegarden present at the April 20 meeting, but he would not be acting in an official capacity.

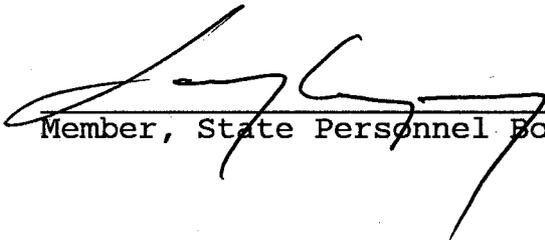
There being no further business to come before the Committee, Mr. Stebbins motioned for the Committee to adjourn. Mr. Gregory seconded the motion. The motion being made and properly carried, the Committee adjourn.



Chairman, MMRS Steering Committee
Finance and Administration



Member, Central Data Processing Authority



Member, State Personnel Board



empted from open meetings by subsection (4) of this section. The reason for holding such an executive session shall be stated in an open meeting, and the reason so stated shall be recorded in the minutes of the meeting. Nothing in this section shall be construed to require that any meeting be closed to the public, nor shall any executive session be used to circumvent or to defeat the purposes of this chapter.

(4) A public body may hold an executive session pursuant to this section for one or more of the following reasons:

- (a) Transaction of business and discussion of personnel matters relating to the job performance, character, professional competence, or physical or mental health of a person holding a specific position.
- (b) Strategy sessions or negotiations with respect to prospective litigation, litigation or issuance of an appealable order when an open meeting would have a detrimental effect on the litigating position of the public body.
- (c) Transaction of business and discussion regarding the report, development or course of action regarding security personnel, plans or devices.
- (d) Investigative proceedings by any public body regarding allegations of misconduct or violation of law.
- (e) Any body of the Legislature which is meeting on matters within the jurisdiction of such body.
- (f) Cases of extraordinary emergency which would pose immediate or irrevocable harm or damage to persons and/or property within the jurisdiction of such public body.
- (g) Transaction of business and discussion regarding the prospective purchase, sale or leasing of lands.
- (h) Discussions between a school board and individual students who attend a school within the jurisdiction of such school board or the parents or teachers of such students regarding problems of such students or their parents or teachers.
- (i) Transaction of business and discussion concerning the preparation of tests for admission to practice in recognized professions.
- (j) Transaction of business and discussions or negotiations regarding the location, relocation or expansion of a business or an industry.
- (k) Transaction of business and discussions regarding employment or job performance of a person in a specific position or termination of an employee holding a specific position. The exemption provided by this paragraph includes the right to enter into executive session concerning a line item in a budget which might affect the termination of an employee or employees. All other budget items shall be considered in open meetings and final budgetary adoption shall not be taken in executive session.

(5) The total vote on the question of entering into an executive session shall be recorded and spread upon the minutes of such public body.

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§ 25-41-7 PUBLIC OFFICERS, EMPLOYEES, AND RECORDS

(6) Any such vote whereby an executive session is declared shall be applicable only to that particular meeting on that particular day.

SOURCES: Laws, 1975, ch. 481, § 4; 1981, ch. 456, § 1; 1990, ch. 541, § 1, eff from and after July 1, 1990.

Cross references—

Application of this section to executive sessions of the environmental protection council, see § 49-29-7.

Application of this section to the Mississippi Gaming Commission, see § 75-76-13.

Research and Practice References—

2 Am Jur 2d, Administrative Law § 229.

56 Am Jur 2d, Municipal Corporations, Counties, and Other Political Subdivisions § 161.

Note, The Personnel Matters Exception to the Mississippi Open Meetings Act—A cloud over the sunshine law. 7 Miss C L Rev 181, Spring, 1987.

Slyke & Rushing, Sunshine in Mississippi: The Open Meetings Act. 60 Miss L J 283, Fall 1990.

Annotations—

Validity, construction, and application of statutes making public proceedings open to the public. 38 ALR3d 1070.

JUDICIAL DECISIONS

The meeting of a city planning commission, which was a "public body" within the meaning of § 25-41-3(a), with two professional city planners, each of whom had provided expert testimony in prior annexation trials, to consider possible expansion of the city through annexation of additional lands, came within the litigation exception to the statute, even though no attorneys were present, since annexation confirmation proceedings are "litigation" within the

The attendance by members of a County Board of Supervisors individually or in a body at social functions or at charities, or with industry or business representatives when their only purpose and function is to listen, and to take no official action at the time, are not public meetings within the Open Meetings Act. *Hinds County Bd. of Supervisors v Common Cause of Mississippi* (1989, Miss) 551 So 2d 107.

Within the framework of the statutory language of the Open Meetings Act itself, all statutory exceptions must, under the spirit and philosophy of the Act, be strictly construed against executive sessions. Even though an executive session might come under "personnel matters," or another of the subjects listed under § 25-41-7(4), this in and of itself is insufficient in the absence of at least a reasonably arguable basis of an actual, present need for a closed meeting on the subject. *Hinds County Bd. of Supervisors v Common Cause of Mississippi* (1989, Miss) 551 So 2d 107.

Under § 25-41-7(4), "personnel matters" were restricted to matters dealing with employees hired and supervised by a County Board of Supervisors, not those employees of some other county officials, and not other county officials themselves. Nor, would a member of the Board of Supervisors be classified "personnel." Moreover, an independent contractor such as an accountant, lawyer, or architect is not an employee of the Board, and would not come under "personnel." Thus, the Board was not entitled to go into executive session under the "personnel matters" exception to consider appointments to fill a vacancy on the Board, to discuss employees of some other county official, or to consider the employment of, or discussions with, an architect concerning his employment. *Hinds County Bd. of Supervisors v Common Cause of Mississippi* (1989, Miss) 551 So 2d 107.

Under § 25-41-7, the reason given for going into executive session must be meaningful. The reason stated must be of sufficient specificity to inform those present that there is in reality a specific, discrete matter or area which the public body had determined should be discussed in executive session. The public body may then go into executive session to discuss this one matter, and, when concluded, must re-open the meeting. No matter may be discussed at the executive session other than the announced subject. *Hinds County Bd. of Supervisors v Common Cause of Mississippi* (1989, Miss) 551 So 2d 107.

Total vote on question of entering into executive session must be recorded, by individual