

City commission meeting, participation by telephone

Number: INFORMAL

Date: November 24, 1997

Mr. John C. Randolph
Gulf Stream Town Attorney
Post Office Box 3475
West Palm Beach, Florida 33401

RE: GOVERNMENT IN THE SUNSHINE LAW--MUNICIPALITIES--QUORUMS--
TELECOMMUNICATIONS MEDIA--participation in public meeting by telephone. s. 286.011, Fla.
Stat.

Dear Mr. Randolph:

Thank you for contacting this office on behalf of the Town of Gulf Stream. You have asked whether the town commission of the Town of Gulf Stream may permit a member of the commission to attend and participate in a commission meeting by telephone where the absent commissioner's attendance is required to establish a quorum. Attorney General Butterworth has asked me to respond to your letter.

On several occasions this office has been asked to provide assistance to local governmental agencies regarding the participation of members of a collegial body in a public meeting through use of telecommunications media and the compliance of such meetings with the Government in the Sunshine Law. In Attorney General's Opinion 92-44, the issue was whether a county commissioner who was physically unable to attend a commission meeting because of her medical treatment could vote in commission meetings by using an interactive video and telephone system. This system allowed the commissioner to see the other members of the board and the audience at the meeting and the board and audience could see her. Of particular concern in resolving this matter was the statutory requirement that meetings of the county commission be held in a public place in the county and that this requirement necessitated the attendance of a quorum of the commission at the designated public forum. With assurances that a quorum of the members of the county commission would be present at the public place, this office concluded that a county commissioner who was, because of a serious medical condition, unable to attend a commission meeting could participate and vote in commission meetings by using an interactive video and telephone system without violating the Sunshine Law.

Subsequently, in Attorney General's Opinion 94-55, this office received a request from a city and the board of trustees of a public museum asking whether a member of the board of trustees could participate in public meetings through the use of a telephone. Again, the situation involved a quorum being present at the public meeting although no statute required the presence of a quorum at these meetings. Further, the member who was requesting to participate by telephone had health problems which precluded his attendance at the publicly designated meeting place. Under these circumstances this office determined that a member of the board of trustees of this public body could participate in board meetings by telephone and comply with the requirements

of the Government in the Sunshine Law.

This office has been reluctant to extend these conclusions other than to situations involving a serious medical condition and the presence otherwise of a quorum at the public meeting place. The Town of Gulf Stream may not be subject to a statutorily imposed requirement such as that present in section 125.001, Florida Statutes. However, concerns about the validity of official actions taken by a public body when less than a quorum is present argue for a very conservative reading of the statutes.

Finally, it has been suggested that agencies or entities who have such concerns should consider adopting administrative rules establishing procedures for conducting meetings, hearings, and workshops by means of communications media technology in order to standardize and codify their official position for reliance on such technology. The model administrative rules contained in Chapter 28-8, Florida Administrative Code, may provide some direction in this regard.

I trust that these informal comments and the copies of Attorney General's Opinions enclosed will be helpful.

Sincerely,

Gerry Hammond
Assistant Attorney General

GH/tgk

Enclosures: Ops. Att'y Gen. Fla. 94-55 (1994) and 92-44 (1992)