

IN RE:           Physical Presence for Attendance at Authority Meetings

A question was raised as to whether or not a public meeting of the Authority Board of Directors could be conducted with a majority, or quorum, or even all members of the Authority participating by teleconference.

The Sunshine Law requires public meetings, consisting of pre-arranged gatherings of entities including authorities, to be attended or participated in by a quorum of the board. In the case of Babac v PA Milk Marketing Board, 613 A.2d 551, 531 Pa. 391 (1992), the Supreme Court of Pennsylvania ruled that in a case of only one member being physically present and the remaining two board members participating by speaker phone, so that a quorum was not present, that it was appropriate under the Sunshine Law. The only proviso that the Supreme Court noted in ruling that it was appropriate was that the absent members must be able to hear the comments of and speak to all those present at the actual public meeting. Participation by speaker telephone clearly satisfies this mandate.

The Municipality Authorities Act requires that a majority of members equals a quorum, unless by-laws require more for a quorum. The Municipality Authorities Act requires action to be by a quorum constituting a majority of members “present” (Section 5610(E)). There is absolutely nothing that indicates that present means “attending” versus “participating”. In my opinion, a member is present for the purposes of a meeting provided that, as noted by the Supreme Court, the meeting is open to the public, and the individuals who are absent can hear anyone who is at the meeting, and all of the people who are at the meeting can hear the individuals participating by telephone. “Present” as stated in the Municipality Authorities Act would be satisfied by members participating by speaker telephone.

MJW/arh