



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

July 31, 2020

The Honorable Manuel Killebrew
President, Quitman County Board of Supervisors
1314 Martin L. King Drive
Marks, Mississippi 38646

Re: Minutes of the Board of Supervisors

Dear Mr. Killebrew:

The Office of the Attorney General has received your request for the issuance of an official opinion.

Issue Presented

What is the responsibility of the chancery clerk, pursuant to Miss. Code Ann. Section 19-3-27, to take, prepare and present minutes for the meetings of the board of supervisors?

Brief Response

Section 19-3-27 imposes a duty upon the clerk of the board of supervisors not only to keep and preserve the minutes but also to create or make the minutes by entering on them actions taken by the board; however, it is within the discretion of the board of supervisors to appoint another person, in addition to the clerk, to draft the minutes for the board's approval.

Applicable Law

Section 170 of the Miss. Const. of 1890 states, in part, that "[t]he clerk of the chancery court shall be the clerk of the board of supervisors."

Pursuant to Section 19-3-27, the clerk of the board of supervisors is obligated:

. . . to keep and preserve a complete and correct record of all the proceedings and orders of the board. He shall enter on the minutes the names of the members who attend at each meeting, and the names of those who fail to attend. He shall safely

keep and preserve all records, books, and papers pertaining to his office, and deliver them to his successor when required.

We have previously opined that Section 19-3-27 imposes the duty upon the chancery clerk not only to keep and preserve a complete and correct record, but also to “take, prepare and present the minutes” by recording all actions of the board. *See*, MS AG Op., *Sherard* (October 10, 1997).

Though the duty is imposed upon the chancery clerk as the clerk of the board of supervisors to prepare and keep the minutes, it is within the discretion of the board of supervisors to appoint another person, in addition to the clerk, to draft the minutes for the board’s approval. MS AG Op., *Sherard* (October 10, 1997). If the board hires a recording clerk to draft the board’s minutes, the board must still pay the chancery clerk all fees and compensation that are mandatory under Mississippi law.

In addition, a properly appointed deputy chancery clerk may, pursuant to Miss. Code Ann. Section 9-5-133, perform all the acts and duties which the chancery clerk may lawfully do. In fact, the board of supervisors may not require the chancery clerk to personally perform his/her official duties so long as the duties incumbent upon the chancery clerk are properly and timely performed by a deputy. *See*, MS AG Op., *Johnson* (January 9, 1998). Likewise, however, all fees still accrue to the chancery clerk as deputy clerks are compensated by a salary. MS AG Op., *Johnson* (January 9, 1998).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ *Phil Carter*

Phil Carter
Special Assistant Attorney General