

**BEFORE THE MISSISSIPPI ETHICS COMMISSION**

**JANET N. COURSIN**

**COMPLAINANT**

**VS.**

**OPEN MEETINGS CASE NO. M-21-013**

**BOARD OF TRUSTEES,  
CARNEGIE PUBLIC LIBRARY**

**RESPONDENT**

**ORDER OF DISMISSAL**

This matter came before the Ethics Commission through an Open Meetings Complaint filed by Janet N. Coursin against the Board of Trustees for the Clarksdale Carnegie Public Library, located in Clarksdale, Mississippi (the “board”). The board filed a response by and through its attorney. The Ethics Commission has jurisdiction over this matter pursuant to Section 25-41-15, Miss. Code of 1972. The hearing officer presented a Recommendation of Dismissal to the Ethics Commission at its regular meeting held on June 10, 2022, in accordance with Rule 4.6, Rules of the Mississippi Ethics Commission.

**I. FINDINGS OF FACT**

1.1 Janet N. Coursin filed a complaint alleging the Board of Trustees for the Clarksdale Carnegie Public Library violated the Open Meetings Act by: (1) limiting the public’s access to its meetings; (2) continuing to improperly enter executive session at its meetings; (3) limiting access to documents discussed at public meetings and (4) failing to respond to her posts on the meetings online chat feature. Specifically, she states that these violations occurred at the library’s meetings on March 21, April 21, April 27, and May 6, 2021; as well as the September and October 2021 meetings.

1.2 First, Ms. Coursin alleges that several board meetings were not held publicly because there were delays in members of the public being admitted to the board’s online meetings. Specifically, at the March 21, 2021 meeting, she states the Zoom meeting link used by the trustees was not the same as the link posted on its website. She states that she was not admitted to the meeting when she tried the link on the website, so she repeatedly contacted the board and its attorney, but admits she was provided the correct link via email and entered the meeting thirty minutes after the meeting started. She states that at the April 21, 2021 meeting, the board established a “protocol between the board chair and meeting facilitator where the facilitator was compelled to ask the chair’s permission to let a member of the public join the meeting.” At the April 27, 2021 online meeting, Ms. Coursin states that members of the public were only selectively allowed into the meeting, such that another member of the public was able to attend, but that she was not. Ms. Coursin states she emailed the board’s attorney at 6:32 p.m. after the April 27 meeting ended to notify him that she was unable to attend the meeting. Likewise, Ms. Coursin states that at the May 6, 2021 meeting, “for the first 30 minutes, there was an on screen message asking to wait, the facilitator would let you in soon.” Upon emailing the board attorney, she states he “replied indicating he too could not get in.” Finally, Ms. Coursin states at “the September [2021] board meeting, the Board attorney was trying to enter the meeting and the Board Chair would not allow the host to grant access.”

1.3 In response, the board states that there was no public meeting held on March 21, 2021. However, the board did hold a meeting on March 16, 2021, and responded that if the complainant's allegations were made in reference to the March 16, 2021 regular meeting, the board cannot confirm or deny whether the link posted on the website was the same link provided to the board members on March 16. However, the board states there was no violation of the Act, since the board quickly remedied the problem when notified.

1.4 The board also states there was no public meeting held on April 21, 2021. However, the board did hold a meeting on April 20, 2021, and responded that if the complainant's allegations were made in reference to the April 20, 2021 regular meeting, that "[i]n deference to the Board Chair, the facilitator, Joyce Hill, who is also the board member that handles the operation of the Zoom calls, confirms with the Chair that a quorum is present and when to let members of the public into the meeting as well as when to remove them." The board denies that this practice violates the Open Meetings Act, but rather, that the board "follows a process whereby the Chair ensures when it is proper to begin the meeting and to allow the public in, and out of the meetings."

1.5 The board failed to respond to Ms. Coursin's allegation that the board was selectively allowing members of the public into the April 27, 2021 meeting. However, the emails provided by Ms. Coursin show that the board attorney quickly responded to her April 27, 2021 email and stated that "[t]he Board had some technical difficulties that delayed the board meeting ... and the Board certainly was not trying to limit anyone's access."

1.6 The board also states that there was no public meeting held on May 6, 2021. However, the board did hold a meeting on May 18, 2021, and responded that if the complainant's allegations were made in reference to the May 18, 2021 meeting, that "[t]he facilitator has no recollection of ever denying access to anyone into any Board meeting." The board states that the meeting was likely delayed because a quorum of the board was not assembled, and that that "[m]embers of the general public are not allowed into meetings until a quorum is present, which can cause delays." Additionally, from the complaint, it is clear that Ms. Coursin attended the meeting, since she states that "[d]uring the meeting, the board chair did not perform any portion of the meeting process without prompting by Janet Coursin using the Chat feature of the online meeting application."

1.7 The board states that at the September 21, 2021 board meeting, that it limited the board attorney's attendance "to save taxpayers' dollars and to limit attorney's fees." The complainant states that "[o]ne Board member requested the attorney be present given the subject matter, and was told no, the library had spent enough money on legal fees." Ms. Coursin concludes that if the meeting were held in person, the attorney could have chosen whether or not to attend, such that the chairperson's decision to deny access was a violation of the Act. However, the board argues that the decision to have their attorney participate during a meeting is "clearly at the discretion of the Board and is not a violation of any . . . rule or statute."

1.8 Ms. Coursin's second allegation is that the board continues to enter executive session without correctly notifying the public of the reason for entering executive session and fails to follow the process of entering executive session correctly. Ms. Coursin states the board improperly entered executive session on March 21, April 27, May 6, and October 2021. At the March and April meetings, Ms. Coursin states that the board went into executive session providing

only a generic description, that they were to discuss “personnel matters and responsibilities” and “personnel, legal and financial matters.” For the May meeting, Ms. Coursin states that the board did not know how to place the public in a waiting room during the executive session, such that “the public was asked to hang up then reconnect to the call, [and] the facilitator would let the public in after the closed meeting.” After the executive session ended, Ms. Coursin complains that the board chair’s voice was muffled, so “the board attorney interrupted; [and] in an audible and succinct manner he notified the public of the outcome of the meeting.” Finally, for the October 2021 meeting, Ms. Coursin alleges “the Board entered executive session for a reason not specific enough to comply with the legal requirements.”

1.9 In response, the board states that on May 25, 2021 the Ethics Commission issued a Final Order in an earlier Open Meetings Case brought by Ms. Coursin (Open Meetings Case M-20-020), where the commission held that the board failed to follow the mandatory requirements to properly enter executive session at a November 2020 meeting. In response to this order, the board states it ratified a newly defined process, and in May 2021, created a template to follow so that it properly enters and exits executive session. The board asserts that since the commission’s Final Order was issued in May 2021, the board has properly entered and exited executive session, such that any alleged violations prior to May 25, 2021 are moot.

1.10 For the October 19, 2021 meeting, the board denies that it entered executive session improperly. While Ms. Coursin alleges that the board simply stated “personnel reasons” prior to entering executive session, the board’s minutes reflect that the board unanimously voted enter closed session to “discuss bank financial, the square account and the Endowment Fund.” The minutes also reflect the board exited closed session then unanimously voted to enter executive session “to discuss matters and possible corrective action plan.” Upon returning to open session, the minutes reflect that “[i]t was announced by [sic] that Ms. Caradine was given approval for corrective action plan and possible disciplinary actions. Ms. Caradine will receive the pay until an accountant is hired.”

1.11 In the response, the board explained:

It came to the attention of the Board that the bookkeeper at the time (not the Petitioner) had improperly documented the revenue received in the Library’s accounts. In short, she was posting funds to incorrect accounts. The Board feared legal repercussions if funds were misappropriated as well as had concerns with the Library’s personnel. After investigating this matter and discussing the same in executive session, it was determined that there were no legal improprieties or misappropriation of funds, but a corrective action plan and possible disciplinary actions were needed. As set-forth in the minutes, the Board directed Ms. Caradine, the Interim Director, to do so. Therefore, the “legal requirements” were met.

1.12 Ms. Coursin’s third allegation is that the board improperly limited access to documents discussed at public meetings. Specifically, Ms. Coursin states that at the October 2021 meeting, “[t]he meeting host was not showing the meeting documents/materials concurrently with the discussion.” She goes on to state that she sent numerous emails to Ms. Joyce Hill and Ms. Sheila Winters during the meeting, but this problem was not remedied. Ms. Cousin then made a

public records request<sup>1</sup> for the October 2021 board meeting documents, and was provided those documents within a few hours, with one page missing.

1.13 In response the board states that “the facilitator does her best to make the documents that are being reviewed available for viewing by those on the Zoom call and pulls up any documents that are requested by any Board member for review.”

1.14 Finally, while it is not clear whether Ms. Coursin meant to allege that the board’s failure to respond to her comments during a meeting is a violation of the Act, but she mentions in her complaint that the board has a standing policy that “they do not entertain or respond to dialogue submitted by the public using the chat feature.” The board states in its response that “the Board is not required, nor would it be proper, to stop its meetings to answer questions asked by the public” using the chat feature.

## II. CONCLUSIONS OF LAW

2.1 “The Open Meetings Act was enacted for the benefit of the public and is to be construed liberally in favor of the public.” Board of Trustees of State Insts. of Higher Learning v. Miss. Publishers Corp., 478 So.2d 269, 276 (Miss. 1985). In Hinds County Board of Supervisors v. Common Cause of Mississippi, 551 So.2d 107 (Miss.1989), the Supreme Court summarized the Legislative intent of the Open Meetings Act as follows:

Every member of every public board and commission in this state should always bear in mind that the spirit of the Act is that a citizen spectator, including any representative of the press, has just as much right to attend the meeting and see and hear everything that is going on as has any member of the board or commission.

Id. at 110. “However inconvenient openness may be to some, it is the legislatively decreed public policy of this state.” Mayor & Aldermen of Vicksburg v. Vicksburg Printing & Pub., 434 So.2d 1333, 1336 (Miss.1983).

2.2 The Open Meetings Act requires public bodies to take all reasonable means within their power and resources to ensure all members of the public who attend are able to “see and hear everything that is going on” at an open public meeting. See, Hinds County at 110. However, the Act also allows public bodies to conduct meetings through teleconference or video means. “A quorum of a public body as prescribed by law may be at different locations for the purpose of conducting a meeting through teleconference or video means provided that the equipment used is located at the place where the public body normally meets or at a public location specified in any notice of a special meeting, and provided that the equipment allows all members of the public body and members of the public who attend the meeting to hear the deliberations of the public body.” Section 25-41-5(2).

---

<sup>1</sup> The complaint included an allegation that the board failed to comply with her public records request, because the copy of the board documents she was provided (that she requested a couple days after the October 19, 2021 meeting), was not complete. This allegation is not addressed herein. The Mississippi Ethics Commission’s authority under Section 25-41-15 is limited to alleged violations of the Open Meetings Act. However, in the response, the board states that the missing document has been forwarded to the Complainant.

2.3 However, none of the situations described by the complainant as actions by the board to improperly limit the public's access to its meetings are violations of the Open Meetings Act. A protocol for meetings held via videoconference in which the meeting is opened to the public only after a quorum is present is reasonable. It is not a violation of the Open Meetings Act to delay the start of a meeting until a quorum is assembled. That the board limited its attorney's presence to only certain portions of its meetings to save funds is also reasonable. And Ms. Coursin's own evidence shows that whenever she was unable to access the meeting, if she timely contacted the board attorney or board members, the situation was quickly remedied. It is not a violation of the Act to encounter technological difficulties, such that an open meeting is not run as smoothly as it could be. The Act does not require that public bodies expertly understand and deploy all the tools that are available when using videoconferencing technology, only that public bodies take reasonable means within their power and resources to ensure all members of the public can see and hear what is going on.

2.4 The complainant's second allegation is that the board violated the Act by continuing to improperly enter executive session at its meetings. Only in limited circumstances, which are enumerated under Section 25-41-7(4) of the Mississippi Code, may a public body enter executive session and exclude the public. The reason or reasons for holding an executive session must be announced to the public in an open session and recorded in the minutes. Section 25-41-7(3). It is the responsibility and obligation of a public body to state a genuine and meaningful reason with sufficient specificity so that the audience will understand that there is an actual, specific matter which is to be discussed in the executive session. Hinds County at 113-114. "A meaningful reason is of sufficient specificity that the audience will at some later date be able to check it out." Id. at 114.

2.5 In *Coursin v. Carnegie Public Library*, Open Meetings Case No. M-20-020, the Ethics Commission held that the board failed to follow the mandatory requirements to properly enter executive session, and in response to this order (issued May 25, 2021), the board ratified a newly defined process, creating a template to follow so that it properly enters and exits executive session. As such, the complainant's allegations that the board improperly entered executive session prior to this time are essentially moot. Additionally, the board's clumsy method of excluding the public by requesting that all members of the public hang up and reconnect to the meeting is not a violation of the Act. Again, the Act does not require that public bodies expertly understand and deploy all the tools that are available when using videoconferencing technology. Likewise, the failure of the board chair to announce the reason for entering executive session audibly at the May 2021 meeting is not a violation of the Act, since an audible and succinct announcement was made by the board's attorney. Finally, with regard to the complainant's allegation that the board failed to provide a sufficient reason to enter executive session at its October 19, 2021 meeting, the board's minutes reflect that, while "personnel reasons" was announced prior to entering executive session, upon exiting executive session, the board announced with specificity the matter discussed in executive session.

2.6 There is also no evidence that the board improperly limited access to documents, the complainant's third allegation. Section 25-41-5(3) requires that "[a]n agenda and materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to the members of the public body shall be made available to the public at the time of the meeting." In this case the complainant

does not allege that the materials were not made available, as they were shared on-screen during the October 2021 meeting, but essentially that the display of the documents discussed were not sufficiently synchronized with the discussion. It bears repeating that the Act does not require that public bodies expertly understand and deploy all the tools that are available when using videoconferencing technology.

2.7 Finally, it is not a violation of the Act when a public body ignores comments made by the public in an online meeting chat feature. “[A] citizen spectator. . . is not a participant. He has no right to intrude or interfere in any manner with the discussion, deliberation or decision-making process.” Gannett River States Pub. Corp., Inc. v. City of Jackson, 866 So.2d 462, 469, (Miss. 2004), quoting Hinds County, 551 So.2d 107 (Miss. 1989). A public body may, but is not required to, allow members of the public to address the public body during a public meeting. Shows v. Madison County School Board, Open Meetings Case M-12-032. See also Brady v. City of Greenville, Open Meetings Case M-18-011; Robinson v. City of Natchez, Open Meetings Case M-18-019; MS AG Op. 2008-00649, Hathorn (January 23, 2009) and MS AG Op. 2006-00539, Smith (November 10, 2006) (“no legal authority that bestows a right on citizens to address matters at [open] meetings”). While public bodies are certainly encouraged to allow for public interaction in their meetings, failing to respond to Ms. Coursin’s comments in the chat feature does not violate the Open Meetings Act.

WHEREFORE, the complaint is hereby dismissed this the 10<sup>th</sup> day of June 2022.

MISSISSIPPI ETHICS COMMISSION

BY: \_\_\_\_\_  
Tom Hood, Executive Director