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The facts of this case are not in dispute. The Brevard County School Board (hereinafter the "Board") held a special emergency meeting on October 5, 2021, to discuss the mask mandate order previously issued by the Board. Due to COVID protocols, this special meeting was live streamed on video and the audio portion was played on speakers set up outside under the entryway for those that were not able to enter the Board room due to social distancing limitations.

During the public comment segment of the meeting, Chair Misty Belford had to admonish the audience several times about disruptions when individual speakers were addressing the Board. After the 22 registered speakers completed their remarks, the public comment portion of the meeting was concluded. No further public commentary or input was scheduled on the agenda. The Board then undertook the formal discussion process between its members as to the mask mandate order.

During this Board discussion segment, Chair Belford had to again admonish the audience concerning comments made from the floor disrupting the ability of the Board to effectively perform its duty. When the audience failed to head those instructions and another disruption interrupted the Board's discussion, Chair Belford followed established procedure for restoring order by calling a recess and requesting the room to be cleared of all attendees. After a short break, the Board formally resumed the meeting within the now vacant hall and continued their previous discussion. The entirety of those discussions, along with several votes on the mask mandate, were recorded, simultaneously live streamed on the internet, with full audio broadcast on speakers in all public areas outside the meeting hall.

The rules and procedures followed by Chair Belford in calling for the recess and the clearing of the room were adopted in part by the Board to address similar behavior that disrupted a previous Board meeting. In that instance the Security Chief for the Brevard County Sheriff's Office requested a recess to allow a cooling off period in response to safety concerns stemming from similar behavior exhibited by that audience. Although that meeting was resumed with the

public present, the Board, after receiving input from their attorney and others, established written guidelines to follow should a similar problem arise in a future meeting. That policy provided the Board with a mechanism for clearing the meeting hall, while ensuring the continuation of the public comment segment of any Board meeting. Further the conduct policy rules and procedures are now read to the audience prior to every Board meeting. It is completely within the Board Chair's discretion as to when and if to exercise the procedures in this policy.

It is extremely important to point out that no one from the public was prohibited from speaking at this meeting on October 5, 2021. The public comment portion was concluded, and all registered speakers had finished their presentations. Further, had that segment not been completed, the rules and procedures adopted by the Board would have provided a structure in which any unheard registered speaker would have been brought individually back into the meeting hall and provided a full opportunity to address the Board.

Therefore, contrary to the concerns voiced in public reporting and some written complaints to our office, the Board's actions had not violated anyone's right to address the Board or offer public comment as a registered speaker. The only restriction imposed, and then only after repeated warnings, was the ability of the public to sit quietly in the room as the Board completed their discussion and took votes on the issue.

Let me be clear, I am not a proponent of mask mandates in schools and firmly believe that every parent should have the right to make that determination based on what is in the best interest of their child. However, the wisdom of such a mandate is not the issue before this office. The issue is, did the action taken by Chair Belford and the Board in resuming the meeting without the public being physically present in the Board room, amount to a criminal violation of Florida's Sunshine Laws?

Under the rules and procedures adopted by the Board, Chair Belford had the discretion to take the actions she did at the special meeting. Chair Belford had admonished the audience on several occasions about comments from the floor and believed the situation was escalating to the point that the meeting was being disrupted. Although one might disagree whether the disruptions had risen to the level which would necessitate the clearing of the room, our review of the available recordings, statements of Board members in attendance, and other sources, provided sufficient evidence to support Chair Belford's perception as reasonable. We do not believe that the act of prohibiting the public physical access after the recess ended rises to the level of a Sunshine Law violation. Again, we emphasize that no one was denied the ability to speak or address the Board and the meeting remained publicly accessible with continuous live streamed video and audio to the outside (out of the hall) audience.

Access to information about our government is a fundamental part of our democracy. Florida provides its citizens a constitutional right of access to government meetings and records. While that access is legislatively intended to be far reaching, it is not without exemption or restriction. Government bodies may institute rules to ensure orderly conduct at meetings and take reasonable steps to ensure the safety and well-being of both the body, and those in attendance. With the onset of the COVID pandemic, physical access has been revised to provide

for appropriate social distancing. The use of video live streaming of public meetings, as well as court proceedings, is well established as complying with Florida's public right of access.

However, we do caution the Board that this type of action should be the rare exception and not taken as a matter of routine or convenience. When possible, individual violators should be identified and escorted from the meeting, rather than clearing the room. Board members themselves should be mindful of their duty to remain professional and ensure their actions do not contribute to the problem. Public meetings are by their very nature sometimes contentious and the right to speak and address our public officials is a vital and necessary freedom that we all enjoy. But with that right comes a responsibility to act appropriately and to follow the rules and procedures for public meetings. Yelling, disruptive behavior, failure to respect the rights of other speakers, or members of the Board, are outside the bounds of lawful public access. There is simply no right to disrupt public meetings. And if it happens there will be consequences.

Sincerely,



Phil Archer