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**INTEROFFICE MEMORANDUM
OFFICE OF THE GOVERNOR**

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TO: GOVERNOR MUSGROVE

FROM: Peyton Prospere

DATE: December 12, 2000

RE: Stewart v. Flag Advisory Commission

Greg Stewart filed an action in Hinds County Chancery Court under the Open Meetings law for injunctive and declaratory relief against the Advisory Commission and its members.

Stewart seeks to enjoin the Commission and its members from (1) meeting in secret; (2) withholding minutes and records from secret meetings; and (3) withholding minutes from the meeting where the Commission voted to recommend redesigning the flag. Stewart also seeks the Court to declare the Commission's acts and secret meetings "illegal," and to award costs.

It appears Stewart is correct that the Commission is a "public body" and must keep minutes of its meetings and those of its committees. Minutes must reflect only members present or absent; date, time, place of meeting; a record of final action taken and votes, by individual members, taken.

The injunctive relief would seem to apply only to production of minutes as the work of the Commission is done. Usually relief is sought against standing bodies, supervisors, aldermen, boards of trustees, so that future conduct will conform to state law. That is not the case here. Minutes could be relatively easy to produce, and if no "final action" was taken in any of the committee meetings, there would be little to record.

As far as a declaration of “illegality” is concerned, the Commission is advisory only, with no authority to effect or implement anything. It is the Legislature that will act. Thus, the report would not be affected, but a declaration of illegality would tarnish or compromise the authority of the Commission. The irony is that it is difficult to imagine a more open process than that adopted by the Commission. Stewart is up to mischief and I will be in touch with the AG’s office concerning a response and the handling of the matter.

Let me know your thoughts.