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April 8, 2015

ESTABLISHED 1911

*D. LOGAN GIFFIN*  
(1890-1980)

*MONTGOMERY S. WINNING*  
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(1903-1987)

*ALFRED F. NEWKIRK*  
(1904-1980)

*JAMES M. WINNING*  
(1921-2013)

Mr. Mike McCreery  
United Counties Council of Illinois  
217 East Monroe Street, Suite 101  
Springfield, IL 62701

Re: **Conflict of Interest**

Dear Mike:

**Issue:**

It is our understanding a major utility company has proposed construction of a transmission line. In this connection, the utility company has proposed two alternative routes traversing through the county. Both routes will impact landowners located within the county. We further understand one of the alternative routes will traverse through property owned or under the control of a county board member.

The county board is considering adopting a resolution recommending a preferred route for the construction of the transmission line.

**Question:**

If the county board elects to participate in adopting a resolution supporting a recommended transmission line route, may a county board member where property may be impacted participate in the discussion and voting on such resolution?

**Analysis:**

A conflict of interest may occur if the county board member receives a direct or indirect benefit from action taken by the county board. Conflicts of interest may generally be classified into two (2) categories: statutory conflict of interest and common law conflict of interest.

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A *statutory conflict of interest* occurs when a specific statutory provision enacted by the Illinois General Assembly expressly prohibiting certain specific conduct. A *common law conflict of interest* are activities deemed by the courts as directly or indirectly creating a conflict of interest by virtue of an appointed or elected official acting on a subject whereby the elected or appointed official may receive a benefit.

**Conclusion:**

It is our opinion a county board member owning or controlling property that may be impacted by the installation of a transmission line may not participate in any discussion or vote on a resolution supporting/recommending or opposing a specific transmission line route.

A related question relates to the appropriateness for the county board to adopt a resolution supporting or opposing transmission line routes. The county board should identify the public interest or purpose supporting/recommending or opposing a transmission line route.

Sincerely,

GIFFIN, WINNING, COHEN & BODEWES, P.C.

  
Herman G. Bodewes

HGB:pa

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**Disclaimer:** This opinion was prepared by Giffin, Winning, Cohen & Bodewes, P.C. at the request of UCCI and is to be used solely by UCCI and its members. The State's Attorney is the attorney for the County. Legal advice, if requested, should be sought from the State's Attorney.