

February 25, 2010

HON. JOSE ANTONIO S. VELOSO  
Vice Mayor  
Presiding Officer  
10<sup>th</sup> Sangguniang Panlungsod  
City Hall  
Tagbilaran City

Dear Vice Mayor Veloso:

This has reference to your letter dated February 23, 2010, requesting for legal opinion on two concerns - 1) who should sign the minutes of the session continued or held after the regular Presiding Officer reportedly “adjourned” the proceedings; and 2) a special session conducted without complying the requirements provided by law.

In reply to the first concern, please be advised that the obligation imposed on the temporary presiding officer under Section 49(b) of the Local Government Code of 1991 is to certify within ten (10) days from the passage of ordinances enacted and resolutions adopted by the sanggunian in the session over which he temporarily presided. Logically it follows, the temporary presiding officer will be the one to sign the minutes of the continued session he presided.

As regards the second concern, please be informed that special sessions of the sanggunian shall require a written notice to the members at least twenty-four (24) hours before the special session is held. The written notice shall contain the date, time and purpose of the special session. The notice must be given or served to the individual sanggunian members at their usual place of residence. These requirements are mandatory under the Local Government Code of 1991. It is a settled principle that in statutes relating to procedure, every act which is of the essence of the proceedings is mandatory (*De Mesa vs. Mencias*, G.R. No. 24583, October 29, 1966). Based on the representations given, the special session held by that sanggunian on February 16, 2010 did not meet the aforesaid requirements. Said special session, therefore, is tainted with some legal infirmities. Any act performed at the session or meeting where there has not been a compliance with such requirements is void. However, may it be emphasized that these legal infirmities have to be adjudicated by the proper court of justice.

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director

