

# **Managing and Conducting Meetings [E]\***

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# CONDUCTING SUCCESSFUL MEETINGS

Managing and Conducting  
Meetings of Local  
Governments



**SOUTH CAROLINA  
ASSOCIATION OF COUNTIES**  
Local Leaders. Statewide Strength.™

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## CREATING RULES OF PROCEDURE



- Brig. Gen. Henry M. Robert
- Born in Robertville, SC
- U.S. Army 1857-1901
  - Chief of Engineers
  - Buried at Arlington National Cemetery
- Created Robert's Rules of Order to bring order to previously unorganized meetings!

2

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## PURPOSE OF RULES OF PROCEDURE

To govern the conduct of members during the meeting; to govern the relationship between the members and the public during the meeting; among the members during the meeting; between the members and the staff

To set expectations for these groups and provide for fair exchange of information while bringing resolution to issues and procedures that are necessary for the proper execution of the mission of the Council.

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## STATUTORY REQUIREMENTS\*\*\*

- *Freedom of Information Act* (FOIA) SC Code 30-4-60 et seq. requires all meetings of public bodies are to be open to the public (unless an allowed Executive Session)
- 4-9-110 of the Home Rule Act requires county council to enact its own rules of conducting public meetings.
- Statutes authorizing the creation of local boards/commissions will require the body to create its own rules of procedure
  - Ex: Planning Commission, BZA, Board of Tax Appeals
- County Council may alternatively require local bodies under its authority to follow rules adopted by council
- Bodies not specifically authorized to create rules don't have inherent power to create rules

4

## MEETINGS BY ALTERNATE MEANS\*\*\*

- Council or other body must authorize alternative methods by ordinance or rule and should write this in such a way as to cover all of the units of county government.
- Must be provided by the lowest common means to the public – generally means telephone conference line.
- Can also provide additional video streaming methods such as Zoom, Facebook live, YouTube.
  - Some services require the public to register and track information
  - Is it a recordable service?
    - If used for minutes preparation you must save the recording for a minimum of 2-years

5

## S.C. LEGAL REQUIREMENTS

- All statutes & rules of procedure apply as if the meeting was in-person
- Ability to hear and be heard
  - A.G. opinion: Town of Tega Cay
- Provide a system for handling quasi-judicial hearings
  - Ability to present/screen share evidentiary documents
  - Ability to question witnesses presented
  - Due Process and Equal Protection issues are implicated

6

## HARDWARE/SOFTWARE ISSUES\*\*\*

- Computer hardware and software should allow both participants and public the ability to hear/see simultaneously
- Members and staff should be able to interact with everyone equally
- Public attendees should be able to access information discussed during the session
- The Body is not responsible for the quality of public internet/telephone connection
- Software should be of a quality to reduce chance of interference by third-parties (hacking, hijacking)

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## GOVERNING DOCUMENTS

**Constitution**

**Statutes**

Freedom of Information Act (FOIA)

Ethics Act

**Local Ordinances**

**Court rulings**

**Parliamentary Authority**

Order of precedence



8

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## PARLIAMENTARY BASICS

1. NOTICE
2. QUORUM
3. MOTIONS
4. DISCUSSION OR DEBATE
5. VOTING
6. MAJORITY RULE
  - EXCEPTIONS SUPPORT THE PRINCIPLES OF NOTICE, QUORUM & DEBATE
7. RECORDS OF ACTIONS TAKEN

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## NOTICE

- Annual notice of regularly scheduled meeting calendar
  - Council must meet at least once a month
- 24 hour minimum notice of individual meetings to public & media
  - Posting of notice and agenda:
    - the location of meeting,
    - Media requesting notice and
    - County website if regularly maintained

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## QUORUM

- No official action can be taken without a quorum present
  - Acts are Null & void absent a quorum
    - *Anderson County v. Preston* (2019)
- Majority of meetings require a simple majority of members – 50% plus 1
- Absent a quorum?
  - Adjourn
  - Recess and try to get a quorum
  - Fix the time to adjourn

11

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## AGENDA & AMENDMENTS

- Agendas are required at all public meetings
- Council has limited ability to add items to the agenda once posted!
  - **Before the meeting**
    - items may be added so long as a new 24 hour notice is provided
    - If less than 24 hours – delay the meeting or wait until meeting begins
  - **Once the Meeting has begun**
    - an item for which action can be taken may be added with a 2/3 vote.
    - Final action item added must have 2/3 vote and a finding by the chair that an emergency or exigent circumstance exists.
      - September 2018 Berkeley County A.G. opinion – emergency must be out of council's control or influence

12

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## MOTIONS

- All motions should be worded in the affirmative rather than the negative
  - Ex: "move to deny" rather than "move to not approve"
- Substantive motions (main/principal)
  - Puts a question before the council
  - Only one main motion at a time
- Subsidiary motions
  - Acts upon a substantive motion
  - Multiple subsidiary motions at the same time
  - Order of precedence
- Incidental & Procedural motions

13

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## MOTIONS: AMENDMENTS

- Three types of amendments .. strike, insert, or strike and insert
- Main motion - an amendment - and an amendment to an amendment
- Amendments limited to immediately pending motion and must be germane
- Don't use "friendly amendment" it is either done without objection or vote on it
- Multiple subsidiary motions to the same main motion - Order of debate

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## AMENDMENT DEMONSTRATION

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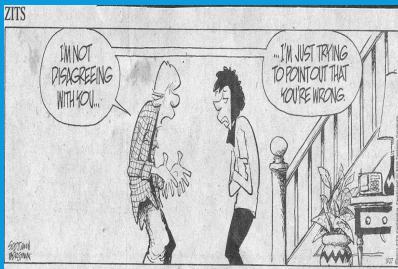
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## SIMPLIFIED CHART OF PARLIAMENTARY MOTIONS

Motion	Debatable	Amendable	Vote
Adjournment	no	no	majority
Recess	no	yes	majority
Lay on the table	no	no	majority
Close debate	no	no	2/3
Limit/Close Debate	no	yes	2/3
Postpone definitely	yes	yes	majority
Refer to committee	yes	yes	majority
Amend amendment	yes	no	majority
Amend main motion	yes	yes	majority
Main motion	yes	yes	majority

16

## DEBATE



17

## DEBATE

- The Chair is responsible for controlling the flow of debate
- Ensures that all members have the opportunity to speak
- Order of Debate
  - Person who raised the issue should speak first
  - First-in-line v. alternate viewpoint
  - Maintain decorum/courtesy
  - Limits on # of times a person may speak
- Should the Chair participate in debate?
  - Another member should preside temporarily
- Ending debate
  - by motion of a member
    - Can't interrupt a speaker
    - 2/3 vote to cutoff debate
  - by the chair when debate exhausted

18



## VOTING – GENERALLY

- Common method - by voice/show of hands
- Required for Passage
  - Majority: (simple-majority) 50% + 1
  - Positive Majority: majority of all the body's members
    - Total includes absentees or abstentions
  - 2/3 Majority: (super-majority) 2/3 present/voting
    - S.C. Code may require that 2/3 of the members present to support
    - Actions affecting rights of members: amending agenda; call the question; postpone to time certain
- Tie votes – considered to have failed, retains the status quo
- When and How does the Chair vote?

19

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## METHODS OF VOTING IN VIRTUAL MEETING



DON'T TRY  
VOICE VOTING

1. WITHOUT  
OBJECTION
2. USING AN  
ELECTRONIC  
PLATFORM
3. ROLL CALL

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## PUBLIC COMMENT PERIODS



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## PUBLIC COMMENT PERIODS

- Different from Public Hearings
- Public bodies are not required to allow public comment periods at legislative/business meetings
- Bodies may enact reasonable rules for public comments at any meeting
  - Content Neutral - Prohibits viewpoint discrimination
  - Can prohibit abusive language/actions
  - Requirements for notice, and reasonable limits (time, # of speakers, order, etc.)
  - Rules may allow for removal for conduct so disruptive as to render the meeting unable to continue – a "last resort" action

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## HANDLING DISRUPTIONS DURING PUBLIC COMMENT PERIODS\*\*\*

- There are free speech implications protecting the public during public comment periods. Free speech does not include profanity or direct assertions of criminal behavior.
- Rules should be adopted addressing public comments and applied evenly.
- The person talking can and should be admonished for not adhering to the rules set forth by Council.
- Arguments with the public should be avoided.
- Law enforcement should be requested to remove any person or persons who are acting inappropriately.
- Council should be in control of the sound & video systems during the meeting.

23

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## PUBLIC HEARINGS

- Statutorily required for certain actions
  - Personal & property notice
- Publically announce rules for public input
  - Time limits; for/against; number of speakers
- Follow the agenda
- Maintain decorum and public safety
  - Don't allow speakers to attack other speakers or members
- Goal is for members to receive information
  - Members should refrain from personal comments or remarks to speakers

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## MISCELLANEOUS ISSUES

- Citizen recording - FOIA permits any person to record the meeting by video or audio
- Removal of a member of the body from a meeting
  - *Lockaby v. City of Simpsonville* – SC Ct. Appeals June 2023
    - discipline is a legislative function granted to the body
  - 2016 WL 3355910 (S.C.A.G.) Ms. Miriam Hair
    - Prior A.G. opinion suggests removal is limited in time and scope
    - Should avoid the appearance of 1<sup>st</sup> Amendment viewpoint discrimination
    - Can't alter the term of office
  - *Houston Community College System V. Wilson*, **142 S.Ct. 1253 (2022)**
    - Discipline of a member with censure and discussion of free speech issues,

25

## ROLE OF THE CHAIR

- Set agenda and ensure materials are distributed to members
  - Rules should provide a process for members to add items to an agenda
- Preside at meeting/hearings
  - Keep the meeting from "going off the rails" while not "controlling" it
- Maintain order and decorum
  - Extends to public and members
- Rule on points and motions
- Recognize speakers

26

## ETHICAL ISSUES & MEETINGS

- SC Code 8-13-700: Member can't use their office to obtain an economic benefit for the member, family, or business/associates
  - Must file a conflict letter with the chair – published in the minutes
  - Can't take any part in debate or vote
    - *avoiding the perception of participation*
- Quorum issues after *Preston*
  - *Anderson County v. Preston*: If the court disqualifies a vote cast – it does not count towards a quorum
- Difference between Conflict and Bias
- Social Media and the Press

27

## POSTPONING/TABLING MATTERS BEFORE THE BODY

- Motion to Postpone/Carry-over/Defer – RONR § 14
  - time certain (2/3 vote)
  - no-limit (majority vote)
  - debatable, amendable, can be reconsidered
- Table/lay on the table/Defer – postpones until a later time – RONR § 17
- The with table, the question dies if not taken from the table by the end of the next meeting – RONR § 17.8

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## REVIVING A PREVIOUS MATTER

- Motion to Reconsider – reconsider an action made at the same or the next meeting – RONR §37.9 to §37.22
  - *Motion must be made by member voting on the prevailing side of issue*
- *Reintroduction of a question previously voted down*
  - *A question previously voted on negatively can't be reintroduced in the same session of the body – RONR § 10.26*
    - *What is a session? RONR § 6.25 & 8.2*
  - *A question can be "reintroduced" if it has been sufficiently changed in language that it is considered a new question – RONR § 38.1*

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## REQUESTS AND INQUIRIES

- Inquiry: directed and answered by the chair only – clarify rule or procedure
- Point of Order: directed to the chair to raise issues of meeting order/conduct
- Point of information: directed to or through the chair seeking information relevant to the current issue
- Point of personal privilege: directed to the chair – address council or make a presentation

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## QUASI-JUDICIAL HEARING

- Individual application/appeal
- Members sit in a judicial capacity rather than legislative
- Constitutional due process and equal protection issues – 14<sup>th</sup> Amendment US Constitution
  - **Impartiality is essential!**
  - Decisions are to be based on presented evidence only
    - Potential for appealable error
- Applicant has the burden of proof
  - Speaks first and last
  - Evidence from staff

31

## EXECUTIVE SESSIONS: MUST BE ON THE AGENDA

FOIA (Sec. 30-4-70) specifically provides for executive session BUT ONLY to consider ONE OR MORE OF THE FOLLOWING and SHOULD BE STATED IN THE MOTION TO GO INTO EXECUTIVE SESSION AS THE REASON FOR THE EXECUTIVE SESSION

1. Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a person to a public body; however, in an adversary hearing involving the employee or client, such employee or client has the right to demand that the hearing be conducted publicly. Nothing contained in this item shall prevent the public body, in its discretion, from deleting the names of the other employees or clients whose records are submitted for use at the hearing.
2. Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against said agency of a claim.
3. Discussion regarding the development of security personnel or devices.
4. Investigative proceedings regarding allegations of criminal misconduct.
5. Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body.

32

## EXECUTIVE SESSIONS:

*Nancy Miramonti v. Richland School District 1* – SC Ct. Appeals  
January 4, 2023

- School Board moved to go into Executive Session to address a parental complaint re: ESOL School location
  - No Executive Session was noticed on the Agenda
  - Motion did not provide sufficient reason for the Executive Session
- In Executive Session, the members approved allowing the chair to respond to the parent by letter
  - FOIA statute expressly prohibits polling, voting or actions that commit the body "to a course of action" while in executive session

33

## RECORDS



- The organization must maintain
  - Records of meetings - MINUTES
  - Records of financial transactions - AUDIT & BUDGET
  - Records of elections & appointments
- Permanent vs. time limited retention & microfilming for security
- County Retention Schedule

[https://scdah.sc.gov/sites/default/files/Documents/Records%20Management%20\(RM\)/Schedules/cotxt.pdf](https://scdah.sc.gov/sites/default/files/Documents/Records%20Management%20(RM)/Schedules/cotxt.pdf)

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## MINUTES

- Section 30-4-90 requires that minutes be kept for all meetings of a public body. The minimum content of these is
  - 1) the date time and place of the meeting
  - 2) recording of the members present and absent
  - 3) the substance of all matters proposed, discussed or decided
  - 4) a record of votes taken
  - 5) any other information requested to be included by a member
- January 2022 A.G. opinion – *Anne Marie Green* - cannot be subjected to a majority vote requirement, but may be subject to exemptions from "public records" in the act or other state law.
- 2-year retention of official recordings used to development minutes

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## ??QUESTIONS??



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