



# 2020 SC Clerks to Council Training

EMBASSY SUITES MYRTLE BEACH

# Role of Clerk to Council

- ▶ Maintain the official records of actions of county council
  - ▶ Knowledge of county operations, & regulations
  - ▶ Attention to detail and good knowledge of grammar/punctuation/spelling
  - ▶ Ability to deal with confidential data
- ▶ Act as the “neutral servant” for the political processes of council
- ▶ The day to day face of the Council
  - ▶ Maintain good working relationship with other elected officials and the CAO
  - ▶ Maintain good office and organizational policies

# Role of Clerk to Council

- ▶ Provide a sense of “continuity” for the council
  - ▶ Councils can turn over every two to four years – the Clerk can often be their legislative history and an invaluable resource for newer members
- ▶ Administrative link between councils and the Association of Counties staff
  - ▶ Information on new council members or updated information on existing members
  - ▶ Notable information on former council members, CAO's and Clerks

# Statutory Requirements

- ▶ SC Code §4-9-110: provides the legal basis for appointing a clerk to council.
  - ▶ “The council shall appoint a clerk to record its proceeding and perform such additional duties as the council may prescribe...”
  - ▶ The clerk is appointed and answers directly to council
  - ▶ Can also be separately a county employee at the direction of the CAO
- ▶ SC Code 4-9-120:
  - ▶ “All proceedings of council shall be recorded and all ordinances adopted by council shall be compiled, indexed, codified, published by title and made available to public inspection at the office of the clerk of council. The clerk of council shall maintain a permanent record of all ordinances adopted and shall furnish a copy of such record to the clerk of court for filing in that office.”

# Overview of the Home Rule Act

- ▶ The day to day role of the Clerk may depend on the size of the county operation and the county's form of government
- ▶ Forms of county government: SC Code § 4-9-10
  - ▶ The Council form – council serves as both legislative & administrative arms
  - ▶ Council-Supervisor – elected council with county-wide elected supervisor that serves as CAO & chairman of council (chair votes only in the event of a tie)
  - ▶ Council-Administrator – elected council appoints a professional administrator who directs daily administration of county agencies/employees
  - ▶ Council-Manager – same form as Administrator except council may by ordinance provide for the appointment of county Auditor and Treasurer

# Home Rule Act

- ▶ Powers of Counties: counties have both general police powers and specific authority to act as provided by the general assembly
- ▶ SC Code 4-9-25: broad police powers to adopt local regulations not inconsistent with state or federal laws
- ▶ SC Code 4-9-30: Specific areas of regulation the General Assembly authorized counties
  - ▶ Make contracts, provide for police & fire, tax

# Home Rule

- ▶ Election of Council members: 4-9-90
  - ▶ Single-member districts (except where at-large existed before home rule)
  - ▶ Decennial reapportionment after census - April 1, 2020
- ▶ Salary & expenses of council: 4-9-100
  - ▶ Must pay actual expenses – no per diem (co additional salary may be paid to elected officials)
- ▶ Council officers: 4-9-110
  - ▶ Council chooses method and elects chairman and other officers
  - ▶ Frequency (at least monthly) and rules of procedure for meetings
  - ▶ Record of official actions must be recorded (minutes)

# Home Rule

- ▶ Ordinances: 4-9-120
  - ▶ Council must enact permanent law by adoption of an ordinance
  - ▶ Three readings at separate meetings – at least seven (7) days between second and third reading
  - ▶ Ordinances must be recorded and codified
- ▶ Public Hearings: 4-9-130
  - ▶ Public hearings must be held before the adoption of certain ordinances
- ▶ Financial Audits: 4-9-150
  - ▶ County must complete annual audits of its financial transactions and open them for inspection



# Home Rule

- ▶ County Boards, Committee and Commissions: 4-9-160
  - ▶ Council has the authority to appoint members of various county entities
  - ▶ Provides for the method of application/interest by the public
- ▶ Ethics: 4-9-180
  - ▶ Elected officials and certain appointed staff must file Statement of Economic Interest forms with the State Ethic Commission
  - ▶ Council members must disclose financial interest in public matters and refrain from voting



# General Duties of Clerks to Council

# The Role of Clerk to Council

- ▶ Recordkeeping
  - ▶ Maintain permanent records of all ordinances, resolutions, petitions and other legal documents – file necessary copies with the Clerk of Court
    - ▶ SC Department of Archives and History County Records Retention Policy
    - ▶ [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)
  - ▶ Maintain custody of the county seal, minutes and Code of Ordinances
  - ▶ Maintain information on board/commission appointments
  - ▶ Maintain orientation/continuing education records for planning officials & staff

# Records Retention

- ▶ Permanent/Microfilm for Security
  - ▶ Council minutes & agenda packets, minutes of boards/commissions, ordinances, resolutions, audit reports, annual budgets
  - ▶ General correspondence that document the development, formulation and adoption of policies and programs (includes communications with citizens and government officials)
- ▶ Tapes/recordings of meetings
  - ▶ 2-years, providing the paper copies have been produced

# Meetings

- ▶ Notify members, the public & the press of all public meetings (regular, special, emergency, public hearings, workshops, retreats)
  - ▶ Beginning of the year for regular meetings and at least 24-hours in advance of actual meeting. Some public hearings require lot posting and 15-days notice
- ▶ Development of agendas and agenda packets
- ▶ Ensure meeting rooms are properly prepared
- ▶ Properly record/transcribe minutes
- ▶ Coordinate necessary follow-up action on council items: contracts, resolutions, ordinances

# Meetings - Agenda

- ▶ County rules of procedure should outline the agenda development
  - ▶ Process for adding items and time limits for inclusion
  - ▶ Process for sending materials to members
- ▶ Posting agendas, public notice and notice to press & other specific requesting parties
- ▶ Process to follow in order to amend an agenda
  - ▶ Prior to meeting
  - ▶ After meeting begins
    - ▶ If it's a final action item

# Meetings - Minutes

- ▶ Witten minutes must be kept for all public meetings. At a minimum minutes should include:
  - ▶ Date, time and location of meeting
  - ▶ Members present and absent
  - ▶ Substance of matters proposed, discussed and decided
  - ▶ Conflicts of interest by any member(s)
  - ▶ Any other information a member requests to be included
- ▶ Minutes are retained permanently and microfilmed for security

# Meetings - Ordinances

- ▶ All permanent county laws must be adopted in the form of an ordinance
  - ▶ Introduced and given three readings
    - ▶ 7 days minimum between second and third reading
- ▶ Ordinances requiring prior public hearing: SC Code 4-9-120: budgets/appropriations, adopting technical/regulatory codes, tax levy, purchase/sale/lease of real property
- ▶ Emergency ordinances
  - ▶ Valid only for 60-days
  - ▶ No tax levy or appropriation



# Meetings - Ordinances

- ▶ SC Code 4-9-120 requires the county to codify and publish their Code of Ordinances
  - ▶ Attest to the enactment on third-thirding
  - ▶ Clerk to Council required to maintain a permanent record of all enacted ordinances and furnish a copy to the Clerk of Court
- ▶ Commercial codification services
  - ▶ American Legal Publishing Corp.
  - ▶ Municode – Municipal Code Corp.

# Swearing In Officials

- ▶ Ensure administration of oath of office for newly-elected officials
  - ▶ Most county elected offices begin on January 2 following the general election
  - ▶ Special elections to fill an unexpired term begin immediately after certification
  - ▶ Who can swear in an official: anyone who can statutorily swear witnesses/grant oaths (notary public, judges, clerk of court)
  - ▶ Article VI, Section 5 of the SC Constitution contains the language of the oath required
- ▶ Officials can not take any official public action before taking the oath
- ▶ Oath form should be filed with the Secretary of State as soon as possible

# Other Duties

- ▶ Certify official documents on behalf of council
- ▶ Prepare reports, correspondence and other material for council/members
- ▶ Maintain council calendar
- ▶ Make travel arrangements for council
  - ▶ Actual expense rather than per diem.
- ▶ Schedule speaking engagements and citizen requests for council
- ▶ Handle member phone calls and mail

# Maintain P&Z Training Records

- ▶ SC Code § 6-29-1320, 1350 & 1360: Planning/Zoning Training
  - ▶ 1320: No later than 12/31 annual the governing body must provide a list to the clerk of all appointees and employees required to obtain planning orientation and/or annual continuing education
  - ▶ 1350: appointees/staff eligible for exemption (6-29-1340) must file a certification with the clerk (no later than 1-year after appointment/hiring)
  - ▶ 1360: appointees and staff must file with the clerk a certification of completion of training requirements by the anniversary date of appointment/hiring
- ▶ Changes to SCAC orientation & annual training programs
  - ▶ Online programs to allow individual training
  - ▶ No statewide webcast in 2020

# Ethics

## No public official or employee may:

- ▶ Knowingly use their position to obtain an economic interest for themselves, family members, or business/person with which they are associated
  - ▶ Contracts, procurement
- ▶ Solicit or accept payment for assistance/advice during employment, other than normal compensation received as an employee/official
- ▶ Disclose confidential information gained during employment for a financial gain for themselves, family members, or business/person with which they are associated
- ▶ Examine private/confidential records for an improper or unlawful purpose

# Statement of Economic Interest

- ▶ Statement of Economic Interest must be filed electronically by the following persons:
  - ▶ All elected/appointed officials
  - ▶ County/municipal CAO (including libraries, commissions, hospitals)
  - ▶ Chief financial and chief purchasing official
- ▶ Officials/employees may ask the Clerk to fill out the form and file: The official must be aware that they are responsible for any information provided or withheld, and any penalties assessed by the SC Ethics Commission.
- ▶ SC Ethics Commission: <https://ethics.sc.gov/>

# Information Resources

- ▶ SCAC Publications: Home Rule Handbook, Handbook for County Government, Revenue Resources, FOIA Handbook, Model Rules of Parliamentary Procedure + annual supplements
  - ▶ <https://www.sccounties.org/scac-publications>
- ▶ SCAC Staff: (803) 252-7255 or 1-800-922-6081 (in SC)
  - ▶ Research: Susan Turkopuls: [sturkopuls@scac.sc](mailto:sturkopuls@scac.sc)
  - ▶ Legal: John DeLoache: [jdeloache@scac.sc](mailto:jdeloache@scac.sc)
  - ▶ SCAC information: Pearl Khalif-Govan: