

# Counties Use Technology to Conduct Virtual Meetings During Coronavirus Pandemic

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**A**s we continue to work in an environment of social distancing and other measures to curb the spread of the coronavirus (COVID-19), county government has had to find creative ways to remain open and function due to the essential services it provides. One of the ways counties can continue to conduct its monthly and other necessary meetings is by using technology to conduct virtual meetings. However, does the Freedom of Information Act (FOIA), which lays out statutory requirements for public meetings, allow counties to conduct virtual meetings? The answer is yes.

Section 30-4-20(d) of FOIA defines meeting as “the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power.” A council meeting could be conducted via conference call as long the meeting is properly noticed with an agenda, and the public has the ability to dial in to the conference call, listen, and make comments if there is a designated time during the meeting for public comment. Minutes of the meeting must also be recorded. There are some Attorney General (AG) opinions that provide guidance on conducting meet-



ings via telephone. In a 2005 opinion, a city council inquired as to whether or not their ordinance regarding meeting attendance via telephone complied with FOIA if their ordinance contained the following provisions:

- a. A quorum of the council members are physically present at the meeting place, and remain physically present throughout the meeting; and
- b. The member(s) attending by teleconference can hear any and all comments made by the public, staff, and other council members (whether attending in person or telephonically), at such meeting.
- c. Each of the members of public, staff, and other council members (whether attending in person or telephonically) can hear the comments, motions and vote(s) of the member(s) attending such meeting telephonically.
- d. The individual presiding over the meeting is physically present during the meeting.
- e. Other than establishing the telephone connections, there shall be no communications between the member(s) attending by telephone and other members of council, unless such communication is part of

the meeting, and can be heard by members of the public in attendance.

- f. All of the comments, motions, and votes of the member(s) attending telephonically must be capable of being recorded in the minutes of the meeting.

The AG opined that “the procedure outlined above for telephonic meetings by the city council would comply with FOIA.” Op. S.C. Att’y Gen., 2005 WL 2250207 (August 25, 2005) (It should also be noted that the AG indicated that, based on the provisions in FOIA, it was not necessary for the city to have an ordinance governing meeting attendance via telephone). In another AG opinion, the

AG opines that pursuant to § 30-4-20(d), a board member of a public body may attend a meeting of that body via phone, and be counted as part of the quorum and vote on matters at the meeting. Op. S.C. Att’y Gen., 2012 WL 3875118 (Aug. 28, 2012).

A meeting can also be streamed live by video, or through the use of some of the other digital platforms such as GoToMeeting, Zoom or Skype, to name a few. Here are some suggestions on how to conduct virtual meetings:

1. Conduct a council meeting by telephone conference with public access to the conference call. Council members should identify themselves each time they speak during the meeting.

All voting shall be done by roll call voting or in some manner that allows the votes of each council member to be recorded into the minutes. If individual council members will be attending the meeting via telephone, the chair needs to identify the members at the beginning of the meeting attending by telephone.

2. Stream a meeting where only council members and/or necessary staff are physically present. The public can stream and e-mail or mail in questions or comments for the public comment period. Another option is to let the public listen to the meeting by dialing into a conference call

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## Examples of County Virtual Meetings

*Below is a summary of how four counties are handling council meetings during the coronavirus pandemic. The information provides a snapshot of how counties across the state are accommodating meetings during these challenging times. Although this period has created a technology learning curve for many, county councils are answering the call.*

**Abbeville County** is using GoToMeetings for council and staff meetings.

The county’s Planning Commission and Voter Registration and Elections Board are also using this platform. Members of the public and media are given information on how to join the meeting in “listen-only mode” and can provide comments via e-mail, fax, or mail by noon of the day of the meeting. All county department heads, municipal leaders, and the county’s pandemic response team meet virtually to discuss the current state of the pandemic and any requests or unmet needs for county emergency management staff to address.

“The media have highly praised our county for using virtual meetings to provide transparency and expand public involvement, particularly during a time when public interest is so high, yet difficult to engage due to the circumstances.” David Garner, Abbeville County Director.

**Georgetown County** is using GoToMeetings and Facebook Live for council meetings and for the county’s Capital Project Sales Tax Commission meetings.

Council meetings are now also broadcast on local cable. Citizens and the media can attend the meetings virtually in listen-only mode. The county suspended its public comment period prior to all council meetings as part of its state of emergency ordinance in March. If a public hearing is required during this period, the county will provide a phone

number for residents to use to record comments as well as a video station at the entrance of the courthouse. The county’s virtual meetings have been very well attended, but broadband access is an issue in rural parts of the county.

“Media and the public were very forgiving of our few early technological difficulties as we adapted to virtual meetings,” said Jackie Broach, Georgetown County Public Information Officer. “They appreciated and still do appreciate that we are trying our best to keep meetings open and accessible during these strange and trying times.”

**Williamsburg County** uses Facebook Live to stream council meetings. Dr. Tiffany Wright, Williamsburg County Supervisor, describes the benefits of virtual council meetings as preventing exposures to citizens and members of the media as they stay abreast of the COVID-19 pandemic in the county. The county faces two challenges for ensuring accessibility for all citizens: the lack of broadband connectivity throughout the county, and the inability to broadcast council meetings on a local cable channel. Citizens have responded very positively to the new format noting it affords them the opportunity to participate in the live meeting, and they can view recorded meetings at times that are convenient for them.

**York County** broadcasts its council meetings live via the county’s website and YouTube while providing for the public to attend virtually and provide comments online through Zoom or by phone. The county uses a moderator during virtual public hearings to assist council and the public. The public may call the county’s helpdesk for assistance. The county expects several boards and commissions to meet virtually using Zoom in May to conduct their meetings and to provide access for the public to attend and participate.

# SCAC Announces New Category for Annual Awards Program



A new award category has been added this year to SCAC's 2020 Annual Awards Program. **The COVID-19 Response and Resiliency Showcase** will honor the ways our counties have responded to the unprecedented health pandemic. All entries submitted for this year's showcase will receive special recognition.

SCAC's annual awards program recognizes innovative projects completed by South Carolina counties during the past fiscal year. The program accepts applications that address all areas of county government, from simple unique ideas that extend limited resources to major collaborative efforts that tackle complex issues.

Counties are encouraged to enter submissions for the J. Mitchell Graham Memorial Award, the Barrett Lawrimore Regional Cooperation Award, and/or The COVID-19 Response and Resiliency Showcase. **The submission deadline is June 26, 2020.**

To learn more about this year's program including changes to the competition, please visit the online Awards Toolkit at [www.sccounties.org/awards/awards-toolkit-2020](http://www.sccounties.org/awards/awards-toolkit-2020).

and comment during the public comment period, or they can e-mail questions or comments to council if a period for public comment is provided for during the meeting.

While the provisions of the law dealing with public hearings (§ 4-9-130 and § 6-1-80) are silent as to whether or not a public hearing could be conducted by virtual means, SCAC is of the opinion that they can as long as the meeting is properly noticed and the public has access to participate in the virtual meeting as outlined above.

A virtual meeting has to meet all of the other FOIA requirements, namely posting an agenda at least 24 hours before the meeting, and recording the minutes of the meeting. The agenda should also give the public notice as to how the meeting will be conducted along with any necessary instructions. While each county may have different electronic resources, SCAC is available to work with each county and their attorney to develop a system that allows them to conduct their normal business and comply with FOIA during these challenging times.

