
Legal Requirements For Virtual Meetings For Planning Entities



**SOUTH CAROLINA
ASSOCIATION OF COUNTIES**

Authority to Conduct Virtual Meetings

FOIA contemplates use of virtual meetings – but doesn't provide details on use.

The rules of procedure adopted by the body must provide the following: (*See RONR pp 97-99, SCAC Model Rules pp 9-10*)

- Authority to hold virtual meetings
- Methods to conduct meetings
- Use of technology
- Manner of introducing motions, debate and voting

Freedom of Information Act (FOIA)

Notice, Agenda & Public Access

- Virtual meetings must address to the same FOIA requirements that physical meetings do.
- Be mindful of technical and license limitations on number of attendees

Minutes and recordings

- Minutes must be taken in the same manner as a physical meeting
- 2-year retention of tape/digital materials after minutes finalized

Technical & Legal Requirements

The method of presenting virtual meeting must allow for all participants to hear everything being said, and to be heard by others

- AG opinion: Grant Duffield 2005 WL 2250207 (S.C.A.G.)

There should be a sufficient method for members to speak and/or make motions without unnecessary interruption of another person who may “have the floor.”

There should be a sufficient method for taking and recording votes

- Roll-call vote is not required, unless specifically required
- Motions & seconds are required per rules of procedure
- Consider approval by acclamation or “without objection” for routine items (approval of minutes, etc.)

Public Comment Requirements

Issues involving public comments

- There is no general right to public comments at most meetings
- Various state laws require certain matters to be given public hearings
 - Consideration of zoning/land development ordinances & regulations
 - Rezoning requests

FOIA and other state laws do not specify the method public input is to be provided

- Real-time (can be difficult to control)
- By email or mail

Legal Issues for Quasi-Judicial Hearings

Applicant hearings before quasi-judicial Boards require applicants be given certain constitutional rights to equal protection and due process

- Equal protection: applicants at virtual hearings must be dealt with using the same legal procedures and standards as they would at a physical location
- Due process: applicants must be provided the opportunity to be heard and for judicial review.
- Opportunity to be heard must provide a procedure to present evidence