Legal & Ethical Considerations
Conducting Meetings of Local Governments

PART 1

Objectives for Part I
- Discuss the importance of rules of procedure for meetings
- Discuss the statutory requirements for conducting meetings of public bodies
- Discuss procedures relevant to different types of public meetings
- Discuss potential ethical issues that arise during meetings

Creating Rules of Procedure
- Brig. Gen. Henry M. Robert
- Born in Robertville, SC
- U.S. Army 1857-1901
- Chief of Engineers
- 1876 created Roberts Rule of Order after presiding over a disastrous church meeting!
- Now in its 11th edition
PURPOSE OF RULES OF PROCEDURE

• To set expectations for the conduct of all public meetings of a governmental body
• To ensure for the fair exchange of information and the proper resolution to issues before the body
• To govern the conduct of members and the public during meetings

Governing Documents

Constitution
Statutes
Ordinance
Court rulings
Parliamentary Authority

Parliamentary Basics

Local public bodies are statutorily required to adopt their own rules of business – SC Code 4-9-110 or other authorizing statutes

1. NOTICE (to the members & public)
   • Agenda & meeting materials
2. QUORUM
3. MOTIONS
4. DEBATE/DISCUSSION
5. VOTING
6. RECORDS OF ACTIONS TAKEN (minutes)
Notice

- Statutorily required
- SC Code 30-4-80(A)
- Annual notice of regularly scheduled meeting calendar
- 24 hour minimum notice of individual meetings to public & media
- Post of notice:
  - at the location of meeting,
  - media outlets requesting notice and
  - County maintained Website if site is regularly maintained (Act 70 of 2015)

Agenda & Amendments

- Agendas are now required at all public meetings
- Agendas can be amended to add items only in the following cases:
  - **Before the meeting**: items may be added so long as a new 24 hour notice is provided
  - **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.
  - AG opinion: has to be a circumstance beyond the body’s control

Quorum

- No official action can be taken without a quorum present
- Majority of meeting require a simple majority of members – 50% plus 1
- Governing document may set quorum
- Absent a quorum?
  - Adjourn
  - Recess and try to get a quorum
  - Fix the time to adjourn
Motions
- Substantive motions (main/principal)
  - Puts a question before the council
  - Only one motion at a time
- Subsidiary motions
  - Acts upon a substantive motion
  - Multiple motions at the same time
  - Order of precedence
  - Most common is the motion to amend

Other less common motions
- Incidental motions: motions which generally relate to the conduct of business or rules of order, and need to be considered immediately
- Privileged motions: motions which are not related to the current business, but relate to special matters

Debate
- The Chair is responsible for controlling the flow of debate - ensure all members have the opportunity to speak
  - Member who raised the issue should speak first
  - First-in-line v. alternate viewpoint
  - Maintain decorum/courtesy
- Should the Chair participate in debate?
  - If the Chair participates - 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
Postponing & Reviving Matters
- Postpone/carry-over:
  - no-limit (majority vote)
  - time certain (2/3 vote)
- Table/lay on the table – postpones until a later time in the meeting
  - dies if not taken from the table by the end of the meeting
- Reconsider – reconsider an action made at the same or immediately proceeding meeting.
  - Motion must be made by a member originally voting on the prevailing side of the issue.

Voting
- Generally by voice/show of hands
- Passage – commonly by simple majority
  - Majority: (simple-majority) 50% + 1
  - 2/3 Majority: (super-majority)
- S.C. Code requirements: amend agenda, over-ride county supervisor actions
- Actions affecting rights of members: amending agenda; call the question; postpone to time certain
- Tie vote – considered to have failed, retains the status quo
- Does the Chair vote?

Misc. Rules of Procedure Issues
- Provisions for alternate attendance
  - A.G. opinion: Town of Tega Cay
  - Ability to hear and be heard
  - Questionable use in quasi-judicial hearings
- Removal from a meeting for Disruption
  - Removal of members of the public
  - SCAG: discipline is a legislative action granted to the body
Ethical Issues
- 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
    - avoid even the perception of participation
  - Note on leaving the room
- Difference between Conflict and Bias
  - Abstention vs. recusal

Quasi-Judicial Hearing
- Individual application/appeal
- Members sit in a judicial capacity
- Constitutional due process and equal protection issues
  - Impartiality is essential!
  - Decisions are to be based on presented evidence only - avoid ex parte issues
  - Potential for appealable error
- Applicant has the burden of proof

Public Hearings
- Statutorily required for certain actions
- Publicly 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 others; speakers or members
- Goal is for members to receive information
  - Members should refrain from personal comments or remarks to speakers
Executive Sessions
- Limited to 6 specific reasons provided for in SC Code 30-4-70(a)
- Body must publicly announced sufficient information for reasons for calling the session and vote in open session
- No votes or polling may occur during the session

Records/Minutes
- Statutorily required for all public meetings
  - SC Code 30-4-90
- Must record official actions: dates/times, quorum, motions, votes & conflict recusals
- Must be maintained permanently & microfilmed for security
  - SC County Records Retention schedule maintained by SC Dept. of Archives & History

??Questions??

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