



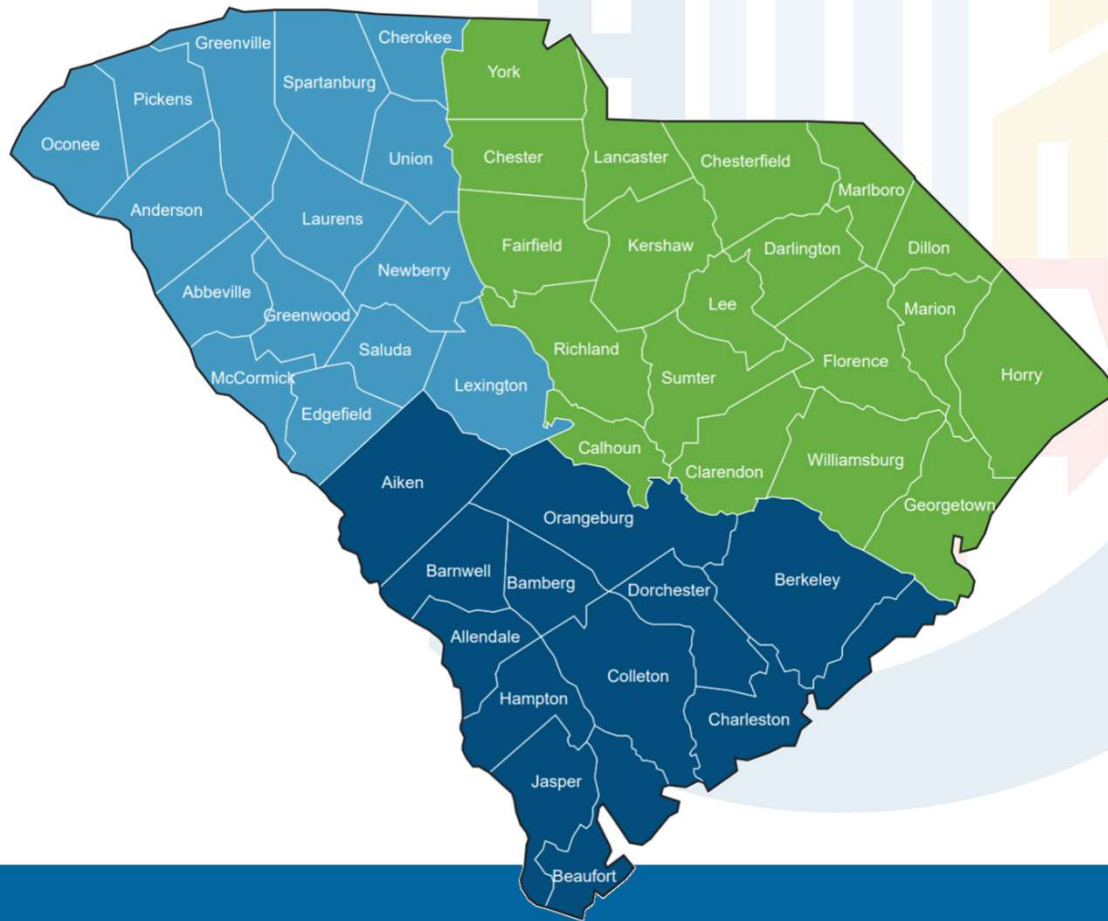
MUNICIPAL BOARDS AND COMMISSIONS

**TOWN OF HANAHAN
June 20, 2023**



**Municipal Association
of South Carolina**

Field Services Managers



- Jeff Shacker**
Field Services Manager
jshacker@masc.sc | 803.354.4750
- Charlie Barrineau**
Field Services Manager
cbarrineau@masc.sc | 803.354.4751
- Ashley Kellahan**
Field Services Manager
akellahan@masc.sc | 803.354.4795



Municipal Boards and Commissions

Session Topics:

1. Roles and Responsibilities
2. FOIA
3. Ethics
4. Effective Meetings
5. Public Participation
6. Parliamentary Procedure



Municipal Association
of South Carolina

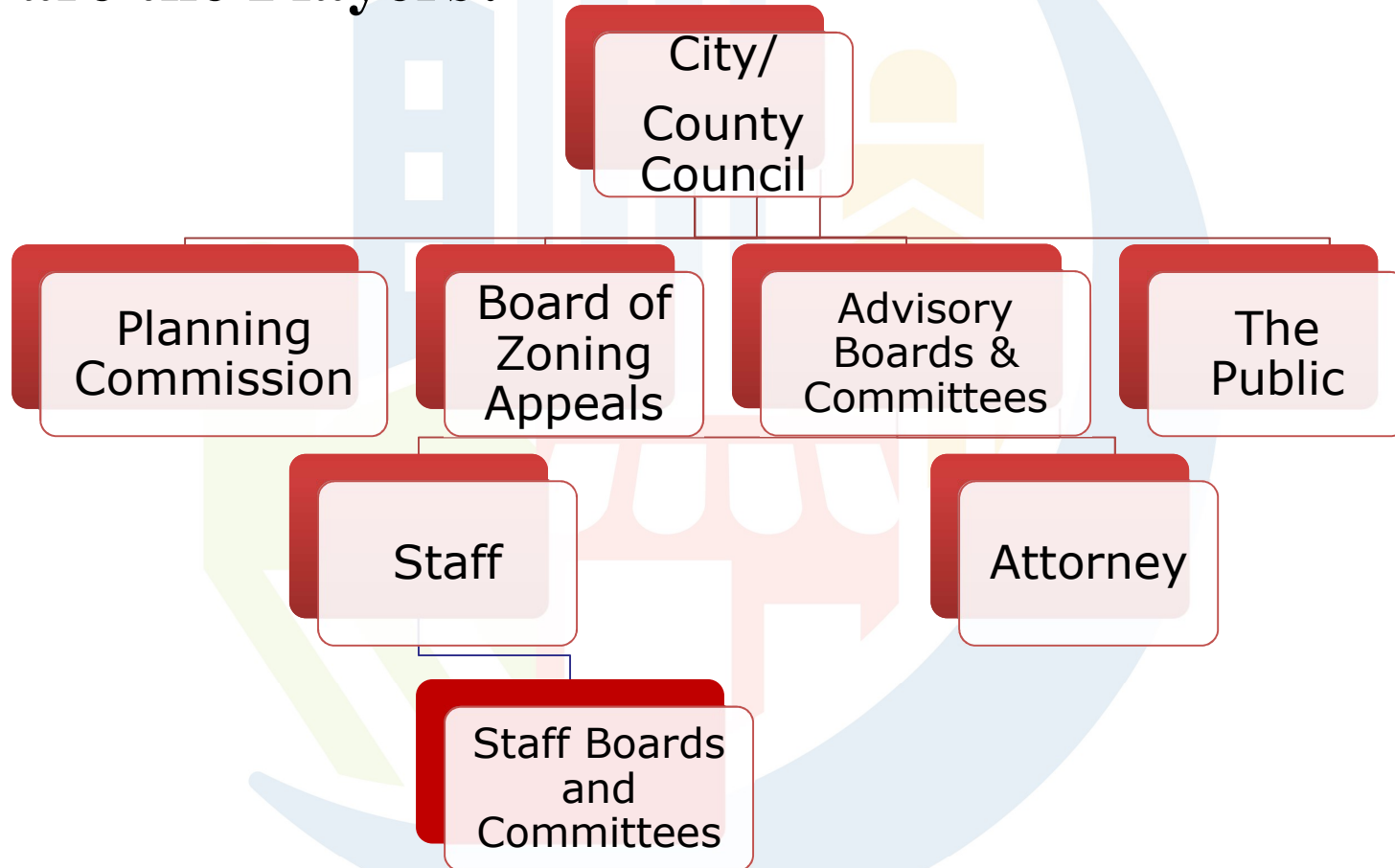
The background features a stylized city skyline with various buildings in shades of blue, yellow, and red. A large, light blue crescent moon is positioned on the right side. In the foreground, there is a green silhouette of a person sitting at a desk, possibly representing a municipal official or citizen.

Roles & Responsibilities



Municipal Association
of South Carolina

Who are the Players?



Planning Commission

- **Advisory Body** to Council
- Appointed by **Council**
- **Roles and Responsibilities**
 - Develops the **Comprehensive Plan, Zoning and Land Development Ordinances**
 - **Provides recommendations** on ordinance amendments (text and map)
 - Reviews **subdivision plats**
 - Undertakes **special studies** at the request of Council



Board of Zoning Appeals

- **Quasi-Judicial Body** that does not report to council
- Appointed by **Council**
- **Roles and Responsibilities**
 - Review appeals of alleged **administrative errors**
 - Review requests for **variances** for relief from an unreasonable hardship
 - Review uses by **Special Exceptions**, as defined in local ordinances



Other Advisory Boards and Committees

- **Difference between Land Use public bodies under state law**
 - **Residency Requirements?**
- **Common types of public-appointed bodies:**
 - **Citizen Advisory Groups (Tree Committee, Youth Council)**
 - **Funding-recommendation bodies (CTC, A-TAX Committees)**
 - **Staff Committees (Evaluation Committees for Procurement)**





FOIA



Municipal Association
of South Carolina

Public Bodies Subject to FOIA

- All public bodies, which includes:
 - City and Town Councils,
 - Public Utility Boards
 - Municipal Planning Commissions
 - Boards of Zoning Appeals
 - Architectural Review Boards
- Must comply with FOIA's public meeting notice and agenda requirements (Section 30-4-80).



What about Committees, etc.?

- All bodies, by “whatever name known,” are subject to FOIA:
 - Standing Committees
 - Ad Hoc Committees
 - Subcommittees
 - Other Advisory Groups

The bottom line is that if a committee is appointed by City Council, it is public – just like Council



Notice Of Meetings

Municipal Clerk: is required to give notice of council meetings to members of council and the public. § 5-7-220. Who is responsible for notice of Committee Meetings? *See Rules of Procedure*

Media: FOIA requires that cities make an effort to notify local media of the time, date, place and agenda of all public meetings. The meeting minutes must note the efforts made to comply. § 30-4-80(e).

Written Public Notice: At a minimum, must include posting a copy of the notice at least 24 hours prior to the meeting at town hall, or at the place of the meeting, and on the city's website, if there is one. § 30-4-80(a) and (d).

Calendar: Municipalities must give written notice of their regular meetings at the beginning of each calendar year. § 30-4-80(a).



Municipal Association
of South Carolina

FOIA can apply to Staff Committees

- *Quality Towing Co. v. City of Myrtle Beach (2001)*
- Case involved staff committee selecting a towing company for City of Myrtle Beach
- S.C. Supreme Court ruled that FOIA applies to staff committees if the committee is making a recommendation in an area that will be acted upon by the council



Five Types Of Meetings

- 1. Regular meetings**
- 2. Special meetings**
- 3. Emergency meetings**
- 4. Public hearings**
- 5. Executive sessions**

- Meetings are a vehicle for achieving certain goals.
- It is important that council selects the right type of meeting.
- Location and environment are important considerations



Work Sessions

- These meetings are not recognized by FOIA as a separate type of meeting. The term is used by local governments for public meetings at which the council or committee intends to take no action.
- As is the case with regular and special meetings, work sessions must meet the same requirements for public notice, agenda posting, public accessibility and minute-taking, etc.
- Failure to provide public notice, prepare an agenda and take minutes for work sessions are common mistakes and are problematic under FOIA.
- While councils / committees typically, or by policy, do not take action at a work session, FOIA regulates work sessions as if the group may.



FOIA and Meetings

Meeting: FOIA defines as the convening of a quorum of the public body.
§ 30-4-20(d).

Quorum: A majority of the total membership of the council must be present to transact business. *§ 5-7-160 and 30-4-20(e).*

Positive Majority: A majority of the total number of members of the body (not simply a majority of the members present and voting).

Simple Majority unless Rules of Procedure state otherwise.

Voting: May be cast by voice, hand or roll call.

Voting: Must be present to vote; no proxies; and no secret ballots.





Municipal Association
of South Carolina

Abstentions And Conflicts Of Interest

Abstentions: Rules of Procedure often require all member present, including the presiding officer, to vote unless prohibited by a conflict of interest.

Conflict of Interest – Proper Procedure (*§ 8-13-700(B)*)

- Announce the conflict
- Follow the Ethics Reform Act of 1991
- Put the conflict in writing (recusal form)
- Do not participate in deliberations
- Do not vote

Members of Public Bodies:

- Should not point out someone else's conflict
- Public announcement could be seen as defamation
- Proper procedure is to notify Ethics Commission



RECUSAL STATEMENT

Member Name: _____

Meeting Date: _____

Agenda Item: **Section** _____ **Number:** _____

Topic: _____

The Ethics Act, SC Code §8-13-700, provides that no public official may knowingly use his office to obtain an economic interest for himself, a family member of his immediate family, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making, or influence a governmental decision in which he or any such person or business has an economic interest. Failure to recuse oneself from an issue in which there is or may be conflict of interest is the sole responsibility of the council member (1991 Op. Atty. Gen. No. 91-37.) A written statement describing the matter requiring action and the nature of the potential conflict of interest is required.

Justification to Recuse:

_____ **Professionally employed by or under contract with principal**

_____ **Owns or has vested interest in principal or property**

_____ **Other:** _____

Date: _____

_____ **Member**

Approved by Parliamentarian: _____



Effective Meetings

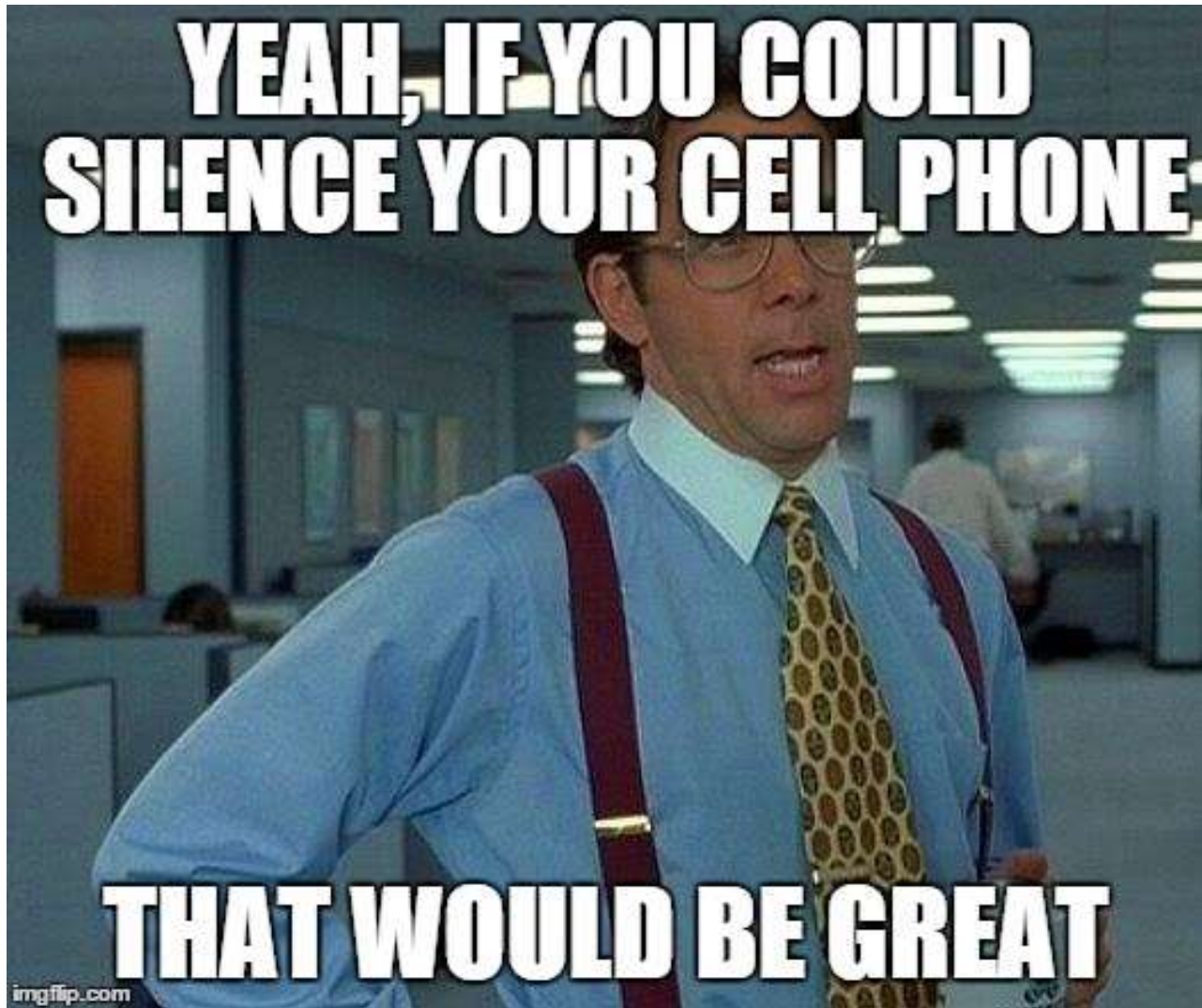


Municipal Association
of South Carolina

Arrive on Time and Prepared



Municipal Association
of South Carolina



Municipal Association
of South Carolina

Avoid Side Conversations



Municipal Association
of South Carolina

First Order Of Business: Rules Of Procedure

- Municipal councils and their appointed bodies are required to adopt rules of procedure to ensure that meetings are conducted in an orderly and proper manner § 5-7-250(b).
- Adopting local rules is important because they establish the procedure for preparing agendas and conducting meetings.
- State law allows councils to exercise complete discretion over their rules of order, local rules may be as complex or as simple as the body sees fit.



What are Rules Of Procedure?

Rules of Procedure prescribe:

- The order council receives certain items
 - Establishment and jurisdiction of council committees
 - Procedure for introducing and enacting ordinances and resolutions
 - Adoption of a parliamentary guide (i.e. Robert's Rules of Order)
-
- They have the force of law when established by ordinance
 - They cannot be repealed, suspended or waived except by ordinance
 - They serve as a guide and are an indispensable tool for expediting business
 - They provide a fair and open method



Meeting Agendas

A written agenda is an invaluable tool for the orderly conduct of public meetings.

An agenda:

- Offers a prearranged outline for the meeting,
- Is a basic method for assigning priorities to the various items of business
- Should have a consistent format from meeting to meeting.



What's In An Agenda?

- Most of the items fall into two basic groups: routine or procedural items and items that vary from meeting to meeting.
- Procedural items may include:
 - Call to Order
 - Roll call
 - Pledge of allegiance
 - Invocation
 - Approval of minutes from previous meeting(s).



Setting The Agenda

How to set an Agenda: The Home Rule Act does not specify who has responsibility for making an agenda or what it must contain.

Agenda predicaments: Who decides what items are placed on agendas is a question often debated. Clear rules of procedure can avoid this debate. They should specify who oversees preparation of the agenda, the process for selecting agenda items, and how the agenda is amended.

In smaller municipalities, the clerk customarily holds the major responsibility for compiling the agenda.

§ 5-7-220 states: “The municipal clerk shall give notice of council meetings to its members and the public, keep the minutes of its proceedings and perform such other duties as are assigned by council.”



Municipal Association
of South Carolina

Meeting Agendas

- **Agenda deadline:** It is customary to set a definite, known deadline for placing items on the agenda.
- **Agenda Packet:** The agenda with backup and supporting materials should be distributed to council prior to the meeting.
- **Agenda Posting:** FOIA requires that the agenda be posted at least 24 hours before the meeting at the principal office or meeting place § 30-4-80(a)&(d)
- Publishing the agenda in a **newspaper** is not required. If requested, the news media must be given notice of the agenda.
- **Amending Agenda:** State law now expressly provides a procedure amending agendas

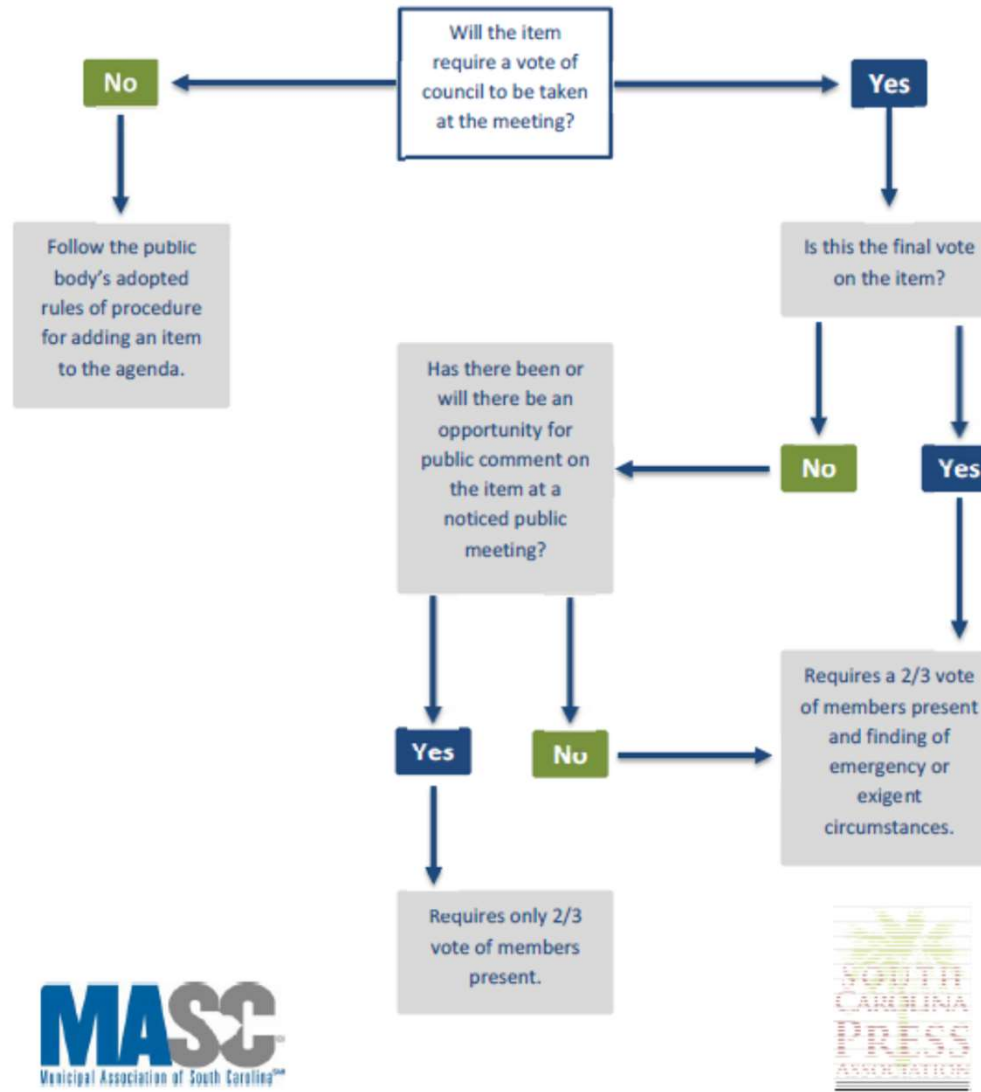


Restrictions on Amending Agendas

- Once agenda is posted, no items may be added without a minimum of 24-hours notice in the same manner as the original agenda.
- After the meeting begins, an action item may added to the agenda using one of two procedures that appear similar but have important differences



Procedure to Add Items to a Meeting Agenda



Why Have Minutes?

Because it is required by state law.

- “All public bodies shall keep written minutes of all of their public meetings. Such minutes shall include...” § 30-4-90(a)
- Contents: While state law does not require verbatim transcripts, minutes must contain a summary of the meeting’s proceedings and provide sufficient detail of decisions made with information on discussions surrounding those decisions.
- What should be included in the Minutes?
 - Name of the public body and the date, place and time of the meeting § 30-4-90(a)(1);
 - The type of meeting – regular, special, emergency or public hearing;
 - Statement that the media and the public were notified of the meeting;



Important Considerations on Minutes

- Distribution and Approval of Minutes
- Minutes and FOIA
- Retention of Minutes



Prayer

- In May 2008, the General Assembly enacted the S.C. Public Invocation Act (§ 6-1-160) in response to court ruling(s) limiting prayer at public meetings.
- Three methods of conducting prayers at public meetings:
 1. A member of the body elected or appointed by the body.
 2. A Chaplain elected by the body.
 3. An invocation speaker selected on an objective basis from among a wide pool of religious leaders in the local community
- While adopting a policy is not required, if a city follows one of the three methods and is sued, the statute provides that "the Attorney General shall defend any deliberative public body against a facial challenge to the constitutionality of this act".





Public Participation



Municipal Association
of South Carolina

Public Participation And Input

- Cities and towns have a number of methods available to encourage public participation:

Newspaper announcements

Radio and TV PSAs

Municipal newsletters

Reminders enclosed in utility bills

Posted agendas

Postcards mailed to interested groups

Social Media

Agenda postings on city website

Youtube Channel

Virtual Platforms

- When scheduling a public hearing, consider the time, anticipated attendance, physical accessibility of the meeting facility, amount of space and seating, and availability of parking.



Options For Allowing Public Input

- The body can handle scheduling public participation in various ways:
 - Allow time on the agenda for general remarks from the public
 - Allow the public to speak only on listed agenda items after signing in
 - Require that members of the public request to appear before the body prior to the agenda deadline and list as a presentation
 - Submit Public Comments (workshop format?)
- In each case, the body may wish to limit the amount of time a member of the public has to speak.



Public Comment Period



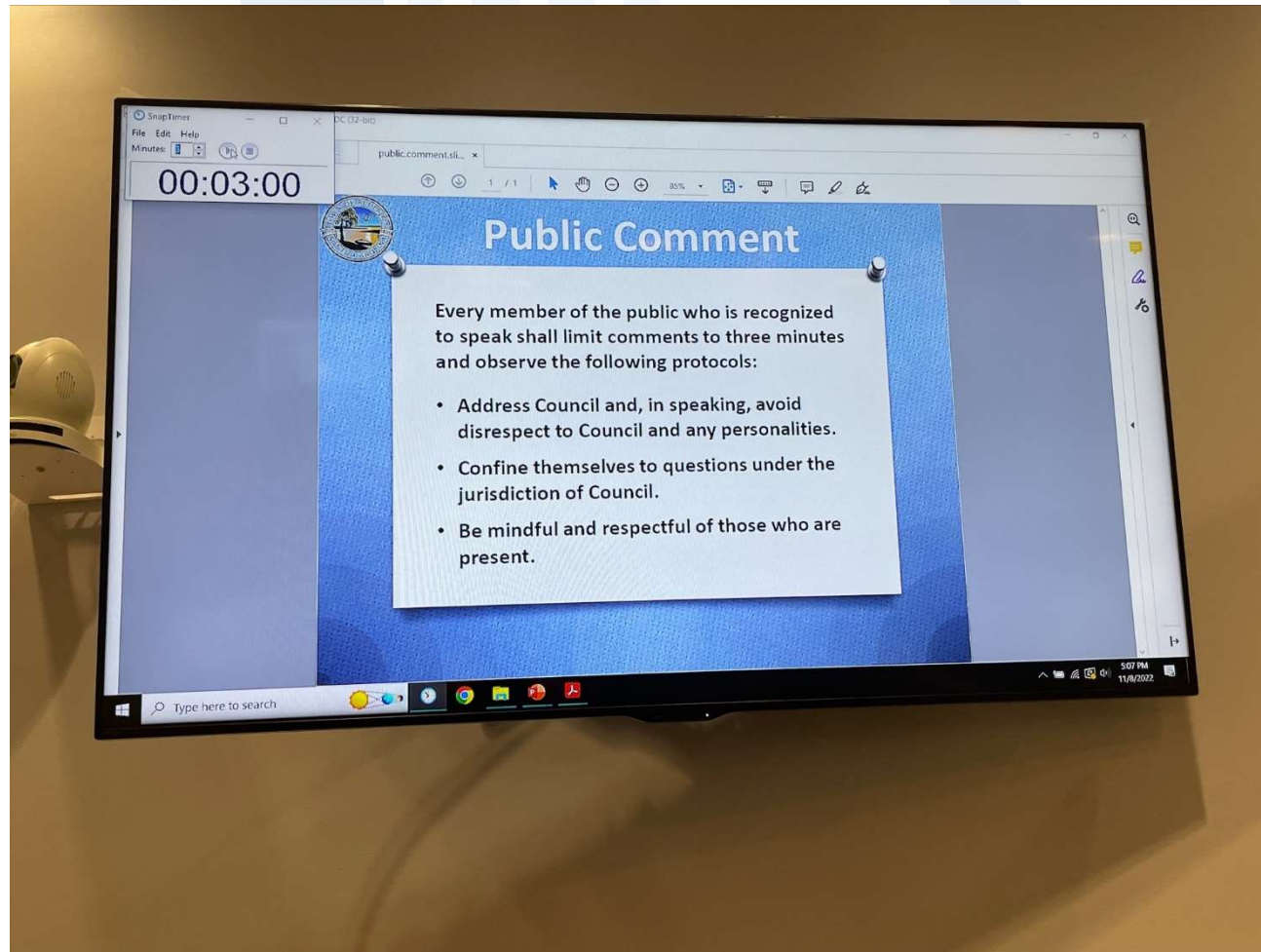
Municipal Association
of South Carolina

Managing Public Input

- **Manage Public Input:**
 - Ask public to sign-in in order to speak
 - Decide when public should speak
 - Limit time period for comments
 - Consider limiting public comments to agenda items
 - Unless appearance is requested prior to agenda deadline
- **Media Relations:** Maintaining an effective, working relationship is important. Remember - for many in your community, media coverage of meetings may be their only source of information about the policies and operations of your city or town.



Public Comment



Municipal Association
of South Carolina

Ex Parte Communication

- *Ex parte* means one-sided. An *ex parte* communication is any communication between a judge or juror and a party to a legal proceeding or any other person about the case, outside of the presence of the opposing party or the opposing party's attorney.
 - Land Use Bodies (BZA, Planning Commission)
- As a matter of general rule for all public bodies, these communications should be avoided



Pitfalls of Social Media



Municipal Association
of South Carolina

A large, light blue crescent moon is centered on the page. Inside the moon, there are several stylized buildings in various colors: a green building on the left, a blue building in the center, a yellow building on the right, and a red building at the bottom. The buildings are simplified, geometric shapes.

Parliamentary Procedure

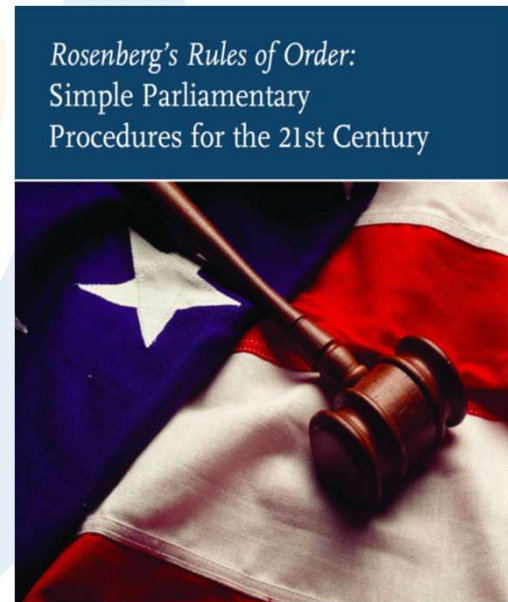
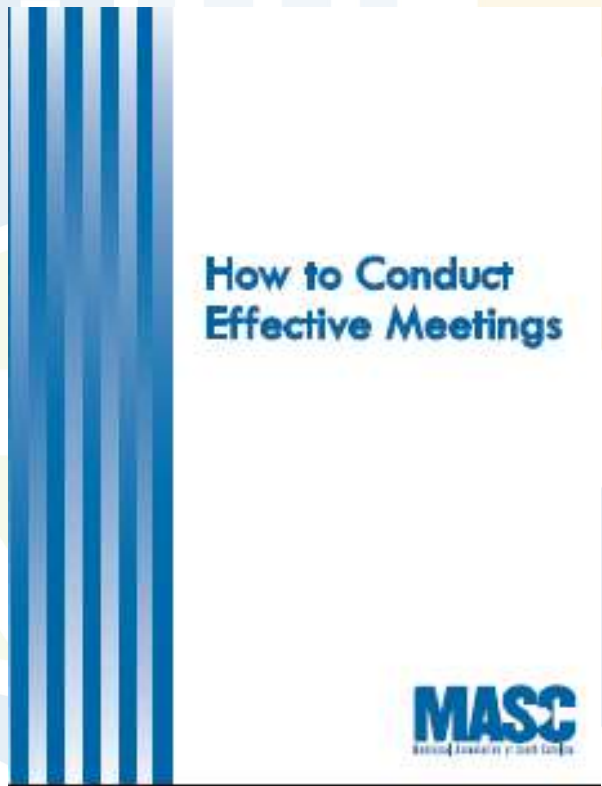
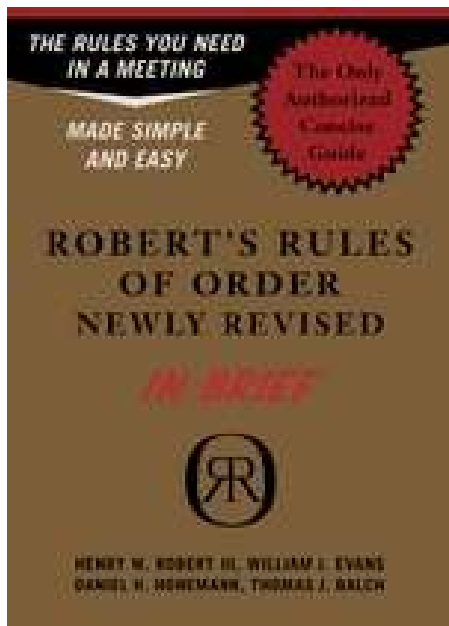


Municipal Association
of South Carolina

How Do I Get Started

- Robert's Rules of Order may be a quick way to satisfy the requirement for rules. However, using only Robert's can be difficult and confusing because they were not specifically designed with municipal councils in mind.
- The Association has developed sample rules of procedure, which have been formatted for easy modification to meet the specific needs of your council.
- They allow the council to reference a secondary (or outside) set of rules of procedure, such as Robert's Rules. In the rare instances when the local rules do not provide sufficient guidance on meeting conduct, the secondary rules may be used.
- Are there alternatives to Robert's? Yes.





Municipal Association
of South Carolina

Making a Motion

1. Member makes motion
2. Another member seconds
3. Presiding Officer states the question
4. Members debate
5. Members vote
6. Presiding Officer announces the vote and “next steps”



Step 1 - Member Makes a Motion

- Motions in writing to avoid confusion
- Member must be recognized by Presiding Officer
- When motion poorly worded, Presiding Officer has the option to assist in clarifying
- Presiding Officer may make motion - *cautiously*
- Get a motion on the floor quickly



Step 2 - Member Seconds

- Only implies member wishes to hear discussion
- No need for recognition for seconds
- Some items do not require a second
- If second required and no one does – then what?
- Misunderstandings about seconding
- Treatment in minutes



Step 3 – Restating the Motion

- Formally places motion before members
- Transfers ownership to the full group
- Presiding Officer restates the motion during debate
- He/She reminds the group if individuals stray from the question before the body
- Now the group must “do something” with the motion



Step 4 – Debate

- The maker of the motion speaks first
- After a motion and second, a skilled presiding officer will often ask "*Would you like to speak to your motion?*"
- The maker should not speak against the motion
- However, the maker may vote against it
- The member who provided a second may speak against the motion and/or vote against it



Step 4 – Debate

- Members may speak twice...
- However, no member is given a 2nd opportunity until everyone has gotten a chance to speak
- Chair must fairly allocate time
- The motion at hand should be the only topic debated.



Step 5 – The Vote

- Repeat motion before voting
- Vote
- Simple majority decides the question, usually...
- Tie vote is a lost vote
- Abstentions vs. Recusals



Step 5 – The Vote

- Part of the public record
- Must be present to vote
- Methods of voting:
 - Voice vote
 - Show of hands
 - Roll call
 - General/Unanimous consent
 - Ballot
- However, no secret ballots



General / Unanimous Consent

- Helps to expedite business
- Chair – *“If there is no objection, the minutes for July 2019 will be approved. (Pause) Hearing no objection, the minutes are approved.”*
- Member – *“I object”* then Chair restates question and calls for vote
- If Chair has a good feel for the group’s opinion, good to use

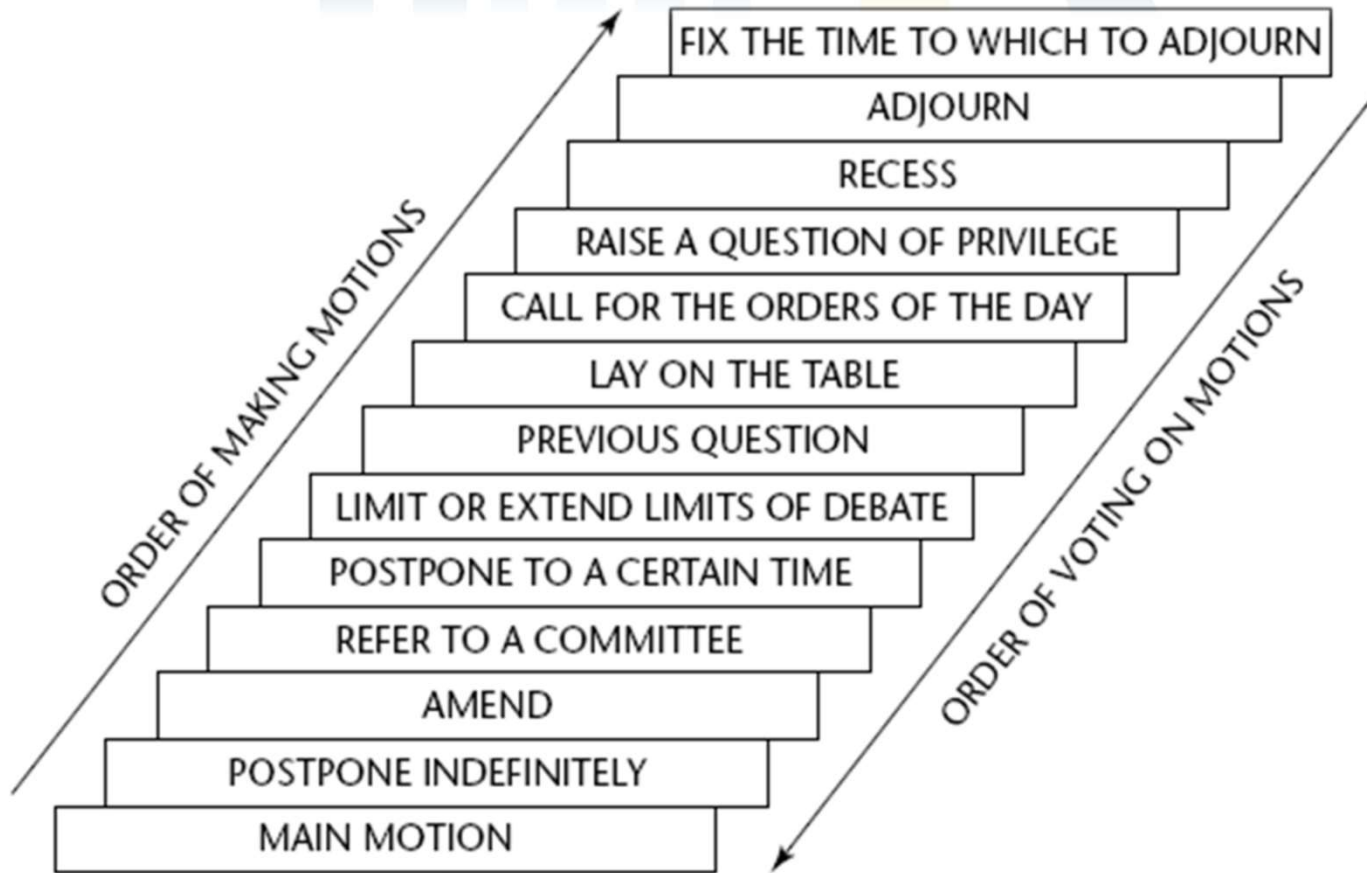


Withdrawing a Motion

- After some discussion, a member can withdraw a motion
- General consent should be used by the Chair to withdraw a motion
- A withdrawn motion does not appear in the minutes



Secondary Motions



Amending a Motion

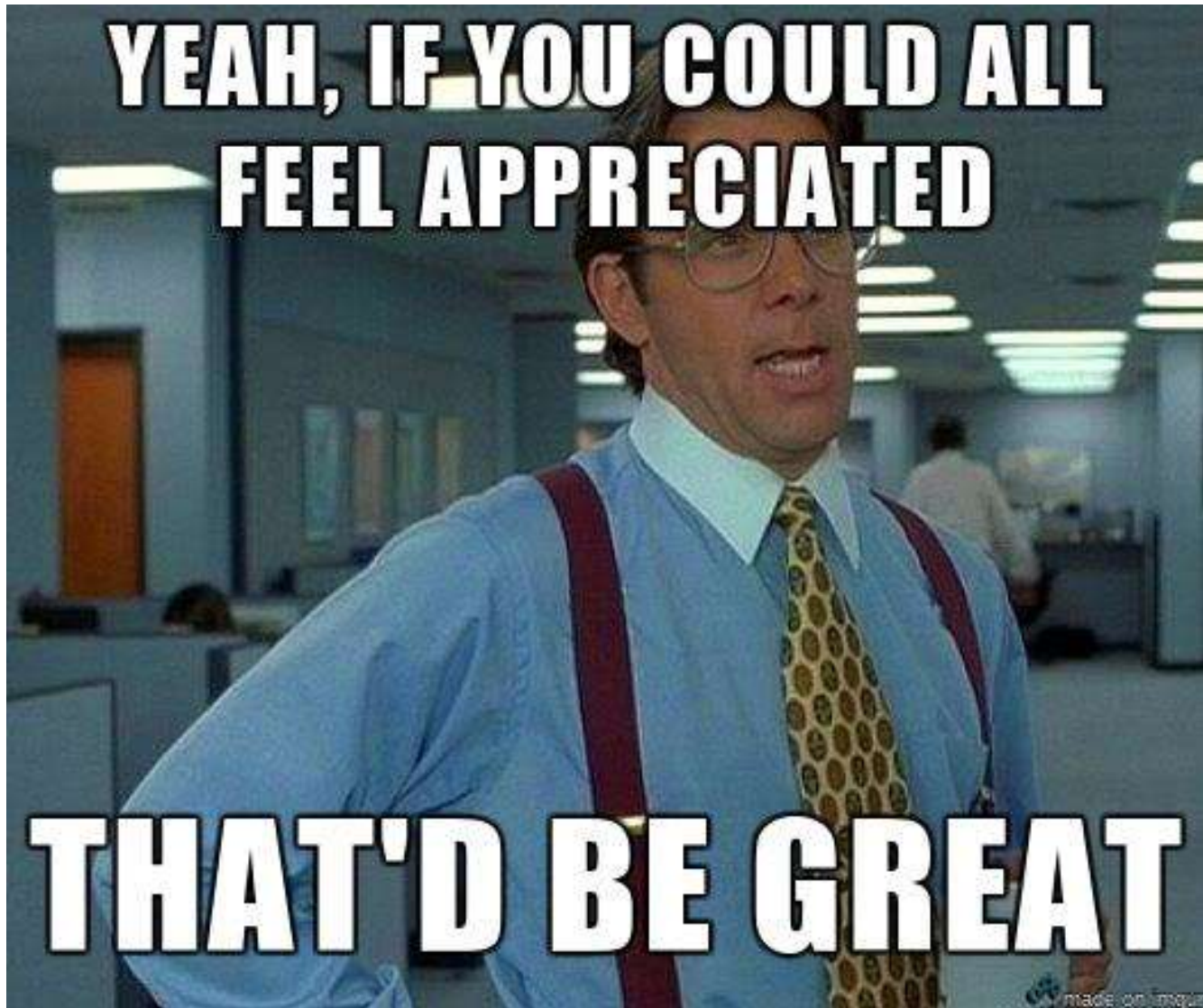
- Three types of amendments:
 1. Add word or phrase
 2. Strike word or phrase
 3. Substitute
- Main motion limited to an amendment (primary) and an amendment to an amendment (secondary)
- Amendments limited to immediately pending motion and must be **germane**
- Only one question at a time; up to three motions



Postponing vs Tabling a Motion

- Commonly misused
- Postpone - Body does want to resume deliberation on matter but for a variety of reasons wishes to so do at a later time – either later in the same meeting or next meeting or *renewed* at a later date.
- Table – The matter is set aside. The body has to approve a motion to bring a matter off the table. This is potentially a FOIA concern.





Municipal Association
of South Carolina



QUESTIONS



Municipal Association[™]
of South Carolina