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# Meeting Administration and the Municipal Clerk

Municipal Clerks and Treasurer's Institute  
February 11, 2025  
Rob Wolfe, Field Services Manager




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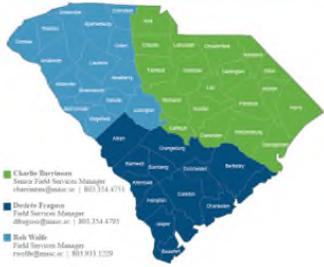
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### Field Services Managers



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## Meeting Administration and the Municipal Clerk

- Session Agenda
  - Meetings
  - Rules of Procedure
  - Agendas
  - Public Participation
  - Minutes
  - Prayer at Meetings




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# Meetings




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## The Common Council Meeting

- **Meeting:** FOIA defines a meeting 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(3)
- **Voting:** May be cast by voice, hand, or roll call.
- **Voting:** Members must be present to vote, no proxies,




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## Two Types of Majority

- **Positive Majority:** A majority of the total number of members of the council (not simply a majority of the members present and voting).
- **Simple Majority:** (Unless Rules of Procedure or State Law requires otherwise)




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### Who Presides?

- In the mayor-council form, the mayor by statute, presides at meetings. § 5-9-30(3)
- In the council and the council manager forms, the mayor, by custom, acts as the presiding officer.
- In the absence of the mayor, the mayor pro tempore assumes the presiding officer's role. § 5-7-190
- If both are absent and a quorum is present, council elects a member to preside at the meeting.




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### Regardless of Form

- The council (governing body) ultimately decides all parliamentary matters and all powers of the municipality are vested in the council § 5-7-160




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### The Clerk's Role in Providing Notice

- Municipal Clerk – is required to give notice of council meetings to members of council and the public. § 5-7-220
- Media – The SC FOIA requires that cities make an effort to notify local media of the time, date, place, and agenda of all public meetings. Meeting minutes must note the efforts were made to comply. § 30-4-80(e)
- Written Notice – Includes posting a copy of the agenda at least 24 hours prior to the meeting. Posted at meeting location and on the municipal website (if there is one) § 30-4-80(a) and (d)




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## Don't Forget!

- Notify people, groups, or organizations that request notification of meetings. § 30-4-80(e)
- Annual Calendar – Municipalities must give written notice of their regular meetings at the beginning of each calendar year. § 30-4-80 (a)




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## Public Bodies Subject to FOIA

- **ALL public bodies - which includes:**
  - Municipal Councils
  - Utility Boards
  - Planning Commissions
  - Board of Zoning Appeals
  - Architectural Review Boards
  - Other commissions that may be established by municipalities




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## What about Council Committees?

- **YES!**
  - Standing committees
  - Ad Hoc Committees
  - Subcommittees
- In short – if it is a committee appointed by council, it is public just as the council is.




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## What about staff committees?

- *Quality Towing Co. v. City of Myrtle Beach (2001)*
- Case involved staff committee selected a towing company for the City of Myrtle Beach
- SC Supreme Court ruled that FOIA may apply to staff committees




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## Five Types of Meetings

- Regular council meetings
- Special called meetings
- Emergency meetings
- Public Hearings
- Executive Session



• Meetings are for conducting public business, it is important that council selects the right type of meeting.




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## Work Sessions

- Considered a special council meeting under FOIA
- Action or No Action?
- Same public notice requirements apply and minutes must be kept.




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## Social Gatherings?

- SC AG Opinion – July 28, 2025
- Board members may socialize
- Exercise extreme caution due to public perception



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## Questions?



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## Rules of Procedure



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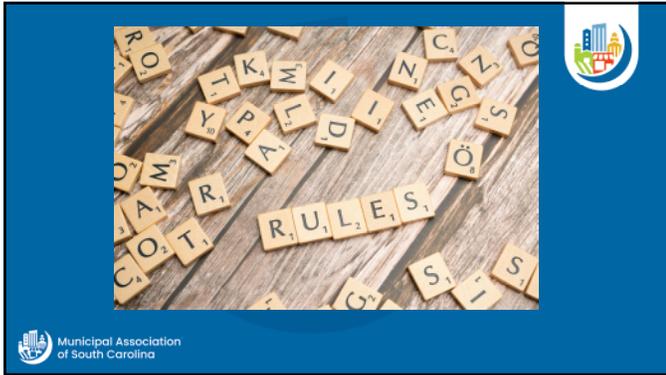
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### The Rules of Procedure

- Municipal councils may adopt and determine their own rules of procedures § 5-7-250 (b)
- Local rules establish the procedure for preparing agendas and conducting meetings.
- Robert’s Rules of Order is frequently adopted as a set of rules, but not required.




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### How it feels to navigate complex rules...




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## What are rules good for?

Rules of Procedure establish:

- The order council receives items
- Establishment and jurisdiction of committees
- Procedure of adopting ordinances and resolutions
- Adoption of parliamentary guide (Robert’s Rules for example)




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## What do rules do?

- They serve as a guide and keep meetings moving.
- They ensure that individual members of council are respected.




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## Getting Started

- Robert’s Rules can be a quick way satisfy legal requirement, but they were not written with municipal councils in mind.
- Robert’s Rules can be used as a secondary set of rules, in rare cases where local rules do not provide sufficient guidance on meeting conduct.




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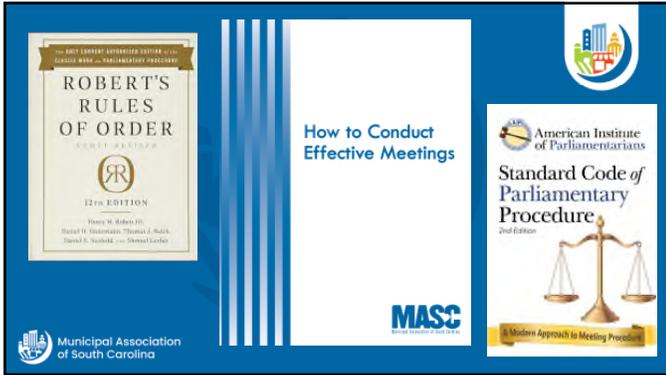
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### The Basics of Parliamentary Procedure

- Making a Motion
  - Member makes a motion
  - A member seconds
  - Presiding Officer states the question
  - Members debate
  - Members vote
  - Presiding Officer announces the vote and “next steps”

Municipal Association of South Carolina

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### Step 1 – Member Makes a Motion

- Motions can be in writing to avoid confusion
- Member must be recognized by the Presiding Officer
- If the motion is poorly worded, the Presiding Officer may assist in clarifying
- Presiding Officer may make motions.

Municipal Association of South Carolina

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### Step 2 – A Member Seconds

- A second does not mean a member agrees with the motion, only that they wish to hear discussion.
- Seconds do not need to be recognized.
- What happens if no one makes a second?




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### Step 3 – Restating the Motion

- Formally places the motion before members for discussion.
- The motion is now in the hands of the group.
- Now the motion is there, the group must “do something” with it.




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### Step 4 – Debate

- The maker of the motion speaks first
- The maker of the motion should not speak against the motion, but they are not required to vote for it.
- The member who provided a second is not required to speak for or vote for the motion.




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### Step 4 – Debate (cont)

- Members may speak twice... but only
  - After everyone has had a chance to speak first.
- The presiding officer must fairly allocate time
- The motion at hand must be the only topic discussed.




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### Step 5 – Voting

- Repeat the motion before voting.
- Vote
  - Simple majority decides the question (unless rules or state law state otherwise)
  - Tie vote is a lost vote
  - Remember recusals and abstentions!




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### Step 5 – Voting (Cont)

- Part of the Public Record, members must be present
- Methods of Voting
  - Voice vote
  - Roll Call
  - Ballot
- Secret Ballot?




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## Can the Mayor Vote?

- Regardless of government – the mayor is allowed to motion, second, and vote on matters before council unless prohibited by a conflict.




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## Conflicts of Interest

### • Conflicts of Interest – Procedure Outlined in §8-13-1700(B)

- Announce the conflict.
- Put the conflict in writing
- Do not participate in deliberations or vote
- **Managing Conflicts**
  - Members should not point out someone else’s conflict
  - Possibly defamation
  - Proper procedure is to notify the ethics commission.




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### 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 she has a personal or business financial or economic interest. Failure to recuse oneself from an issue in which there is or may be a conflict of interest is the sole responsibility of the council member.

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: \_\_\_\_\_




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## Abstentions

- **Abstentions:** Rules of Procedure often require all members present, including the mayor, to vote unless prohibited by a conflict of interest.



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## An Observation

- **Tabling or Postponing?**
  - Tabling is used when postponing is usually intended.



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## Questions?



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# The Agenda




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## Why have agendas?

- Written agendas prove a guide for the orderly conduct of a meeting.
- The Agenda
  - Provides a pre-arranged outline for the meeting.
  - It assigns priorities to various items of business.
  - Should have a consistent format from meeting to meeting.




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## What goes on an agenda?

- Two types of business – routine/procedural items and business items

Common Procedural Items

- Call to Order
- Roll Call
- Pledge of Allegiance
- Invocation
- Approval of Minutes




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## What goes on an agenda?

- Business Items
  - Resolutions
  - Ordinances
  - Petitions
  - Reports
  - Committee Reports




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## Setting the Agenda

- **How:** The Home Rule Act does not specify who has responsibility for making an agenda or what it must contain. Local rules of procedure should provide clear roles and responsibilities.
- **Who:** In smaller municipalities, the clerk customarily holds the major responsibility for compiling the agenda. Can also be the mayor, administrator, or someone else.
- **§ 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.




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## Beware!

- What goes on the agenda can be a source of conflict. Rules should clearly define procedures for adding items to the agenda.




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## Order of Business

- Robert’s Rules of Order:
  - Approval of minutes of the previous meeting.
  - Reports of standing committees
  - Reports of select committees
  - Unfinished business
  - New business

Once agreed upon, the order of business should be adopted by ordinance or resolution.




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## Order of Business

- State law requires that agendas provide a clear description of each business item to be discussed under the broad headings




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## Meeting Agendas

- **Deadlines** – Local rules typically set a deadline for placing items on the agenda.
- **The Packet** - The agenda with supporting material should be distributed to council prior to the meeting.
- **Agenda Posting** – FOIA requires that the agenda be posted at least 24 hours prior to the meeting.
- **Amending Agendas** – State law through FOIA expressly provides a procedure for amending the agenda.




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### Executive Session

- § 30-4-70 (a) allows a public body to hold a closed meeting for five reasons, provided that its “specific purpose” is announced in open session.
- Specific Purpose?
  - “a description of the matter to be discussed as identified as in items (a) (1) through (a) (5)




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### Donahue v. City of North Augusta

- Clarified requirements of FOIA related to Executive Session
- SC Supreme Court held that describing the purpose of executive session as “proposed contractual matters” is not specific enough.




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### Executive Session

- § 30-4-70 (a)
  - Personnel Matters
  - Contractual, Real Estate, and Legal Matters
  - Security Personnel and Devices
  - Investigative Proceedings
  - Economic Development




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# #1

- Personnel Matters
  - Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body.
  - *The court concluded that the identity of the individual or entity being discussed is not required to be disclosed.*
  - *List the department on the agenda instead.*




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# #2

- Contractual, Real Estate, and Legal Matters
  - Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice or other matters covered by attorney-client privilege.
  - *The specific purpose must be listed on the agenda and read aloud when entertaining a motion to enter executive session.*




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# #3

- Security Personnel and Devices
  - Discussion regarding the development of security personnel or devices.
  - *The specific purpose must be listed on the agenda and read aloud when entertaining a motion to enter executive session.*




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### #4

- Investigative Matters
  - Investigative proceedings regarding allegations of criminal misconduct.
  - *The specific purpose must be listed on the agenda and read aloud when entertaining a motion to enter executive session.*




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### #5

- Economic Development Matters
  - Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging the location or expansion of industries or businesses in the area served by the public body.
  - *The court concluded that the identity of the individual or entity being discussed is not required to be disclosed – be generic or list a project name on the agenda instead.*




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### Brock v. Town of Mount Pleasant (2016)

- SC Supreme Court determined that council violated FOIA by taking action on an item discussed in executive session without providing notice on the agenda that it intended to take action on matters discussed in executive session.
- The court concluded that a notice of possible action must be provided on the agenda.




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### Brock v. Town of Mount Pleasant (2016)

- The notice is not required to be specific, but any actions must relate to items discussed in executive session.
- Simply indicating on the agenda that action may be taken on items discussed in executive session is sufficient.




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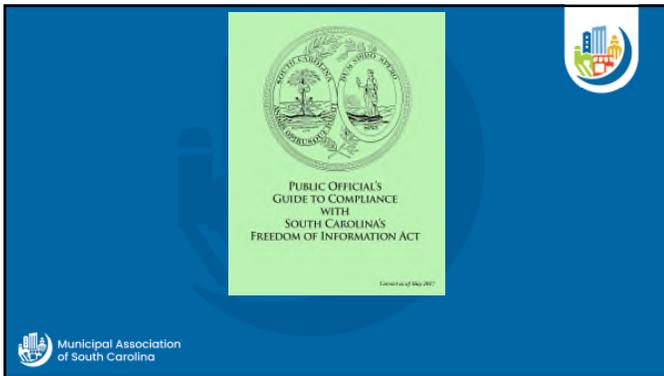
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# Public Participation and Input




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## Public Participation and Input

- Municipalities have a number of methods available to encourage public participation:
  - Newspaper
  - Newsletters
  - Posted Agendas
  - Social Media
  - Radio and TV
  - Utility Bill
  - Website
  - YouTube





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## Public Hearings

- Required by law prior to certain council votes (budgets, fees, adoption of comprehensive plan)
- A time for council to receive information from the public on a specific topic.
  - Can be used to gather community input.
  - Receive feedback on the use of public funds.




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## Public Comments

- Public comment periods are common but not a required part of a council meeting:
  - Time on the agenda for general remarks from the public.
  - Allow the public to speak only on listed agenda items after signing in.
  - The public must sign up by a deadline prior to the meeting.




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## Potential Problems

- Ineffective Presiding Officer
- Enforcing rules unevenly
- Allow council to be “surprised” by questions and speakers
- Failing to set expectations for the public
- Residency requirements




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### More Rules?

- Council is allowed to adopt rules for public comments:
  - Time limits
  - Relevancy




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### More Rules?

- SC AG Opinion June 5, 2023
  - Affirms right of municipalities to set their own rules for public comments.
  - Rules for relevancy are valid
  - Time limits are valid\*
  - Speakers may not transfer their time to someone else.
  - The chair should exercise extreme caution if attempting to remove someone.




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### Questions?




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# Meeting Minutes




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## The Importance of Minutes

- What are Minutes
  - Summary of the activities of a public body at a public meeting.
  - Minutes are generally not verbatim.
  - There is no requirement in law for a transcript of the minutes.
- Minutes are ultimately **THE** official record and carry the weight of law.




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## Why minutes?

- Required by state law.
  - The municipal clerk shall... keep the minutes of its proceedings. **§5-7-220**
  - The council shall... provide for keeping minutes of its proceedings which shall be public record. **§5-7-250 (b)**
  - All public bodies shall keep written minutes of all of their public meetings. **§ 30-4-90 (a)**




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### Minutes Include...

- Indication of whether a quorum was present and a listing of the members present and absent § 30-4-90 (a)(2)
- Disposition of the minutes from the previous meeting
- The substance of all matters proposed, discussed, or decided and a record of any votes taken




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### Minutes Include...

- All main motions, adopted or defeated, the names of those making the motions, and the votes tallied for each item
- Points of order and appeals, whether they were sustained or lost
- Appointments to committees, boards, and other bodies




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### Minutes Include...

- Resolutions, ordinances, official communications, etc.
- Voting record of councilmembers when a count has been ordered or a vote is by ballot or roll call.
- Summary of reports of committees and departments unless written reports are attached.
- Recusals
- Any other information that any member wishes to be reflected.
- Clerk's signature followed by approval date and verifying initials.




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### Minutes Exclude...

- Remember – minutes are a reflection of action
- Minutes should not include:
  - Interpretation of events.
  - Withdrawn motions
  - Name of person seconding the motion (may be included but not necessary)
  - Transcriptions of presentations and reports




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### Preparing the Minutes

- Approval of Minutes: Minutes are not official until they have been approved by council, typically at the next meeting. Once approved, minutes should not be rewritten.
- In special cases, council can correct the minutes after they are adopted – but should be avoided.
- Clerk prepares draft minutes for council after the meeting.
- Recordings of meetings, draft minutes, and approved minutes are public records and must be released immediately upon request.




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### Distributing the Minutes

- Local rules should establish the procedure
- Generally three methods of receiving minutes
  - Issued to members after the meeting.
  - Issued to members as part of the packet for the next meeting
  - Read aloud at the next meeting




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## Retaining the Minutes

- Retention Records are set by the SC Department of Archives and History, minutes are a permanent record.
  - Minutes should be retained permanently along with packets, ordinances, and resolutions
  - Audio or video records may be destroyed after 2 years
- All minutes of council meetings should be kept in a permanent book.




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## Tips and Tricks

- Use past tense. "Council approved"
- Note who is present – sign in sheets help
- Be concise
- Include enough information about each issue so that the reader can understand the issue
- Avoid personal opinions and thoughts




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Questions?




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## Prayer in Meetings




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### Prayer at Council Meetings

- Regardless of your position, prayer at public meetings can be an emotional topic.
- What about the 1<sup>st</sup> Amendment?
- What if prayer makes someone uncomfortable?
- Councils should proceed with caution and consult with your municipal attorney if issues arise.




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### Prayer at Council Meetings

- Public Invocation Act (2008) amended in 2016 (§ 6-1-160).
- Provides for three methods for conducting prayer at public meetings.
- Does not protect from lawsuits




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### Prayer at Council Meetings

- Method 1 – The Invocation is offered by a member of the elected or appointed body.
- Method 2 – The invocation is offered by a chaplain elected by the public body.
- Method 3 – An invocation speaker selected on an objective basis from among a wide pool of religious leaders in the local community.




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### A Deeper Dive on Method 3

- May compile a list of known congregations in the local community.
- Send written invitation to offer invocation.




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### A Deeper Dive on Method 3

- Request that the invocation not be used to proselytize, advance or disparage any faith
- Schedule respondents on a first come first served basis




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## A Policy on Prayer

- A local policy is not required for offering an invocation before a meeting.
- However, adopting a policy from the Public Invocation Act ensures that the attorney general will defend your municipality against a challenge to the constitutionality of the act.




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## Parting Thoughts

- The invocation is for the benefit of the council not the public. Any prayer should be directed at the body
- No proselytizing, disparaging, or advancing any faith or belief
- No one may be coerced into participating in the prayer




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## Final questions?




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# Meeting Administration and the Municipal Clerk

Municipal Clerks and Treasurer's Institute  
February 11, 2025  
Rob Wolfe, Field Services Manager



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