



MEMBERS OF LANCASTER COUNTY PLANNING COMMISSION

JASON CAVALIER, DISTRICT 1
T. YOKIMA CURETON, DISTRICT 2
LYNETTE HINSON, DISTRICT 3
VICE-CHAIR JUDIANNA TINKLENBERG, DISTRICT 4
CHAIR-MICHELLE RICHARDS, DISTRICT 5
SHEILA HINSON, DISTRICT 6
FRANCES LIU, DISTRICT 7
SECRETARY: MARA MATA

MEMBERS OF LANCASTER COUNTY BOARD OF ZONING APPEALS

CHARLES K. DEESE, CHAIR
JAMES FAULKENBERRY
MARK BOLAND
AARON FENDER
SECRETARY: MARA MATA

MINUTES

**Lancaster County Planning Commission & Board of Zoning Appeals
September 23, 2025, 5:30 p.m.
LOCATION: Del Webb Library
7641 Charlotte Highway
Indian Land SC 29707**

Training began at 5:34 p.m.

1. Commissioners and Board Members Sign In:

Quorum is present (5 Commissioners) (1 Board Members)

Commissioners Present:

Jason Cavalier, Dist. 1
T. Yokima Cureton, District 2
Lynette Hinson, District 3

Judianna Tinklenberg, Dist. 4
Michelle Richards, Dist. 5
Sheila Hinson, Dist. 6

Board Members Present:

Charles Deese

Absent: Frances Liu, James Faulkenberry, Mark Boalnd, Aaron Fender

Staff Present:

Allison Hardin, Development Services Dir.
Ginny Merck-DuPont, County Attorney
Matthew Blaszyk, Planner Corey Barnes, Planner
Admin. Assistant: Mara Mata

Special Presentation by John DeLoache, SCAC Senior Staff Attorney

The following press were notified of the meeting by email in accordance with the Freedom of Information Act: The Lancaster News, Kershaw News Era, The Rock Hill Herald, The Fort Mill Times, Cable News 2, Channel 9, and the local Government Channel. The agenda was also posted in the lobby of the County Administration Building for the required length of time, and was published on the County website.

THE FOLLOWING IS A SUMMARY OF PROCEEDINGS. IT IS NOT A VERBATIM TRANSCRIPT.

2. TRAINING on FREEDOM OF INFORMATION ACT

Ginny Merck-Dupont provided training on aspects of FOIA impacting County advisory boards and commissions.

See attached slideshow and supplemental handouts

3. TRAINING on MODEL RULES OF PARLIAMENTARY PROCEDURE

John DeLoache provided training on the rules of parliamentary procedure in South Carolina counties.

Training ends at 7:05 pm.

PC Training

9-23 - 25

Name

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Kynette Hinson

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Charles Reese

Board of Zoning Appeals

JASON CARLIER

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Yolima Cureton

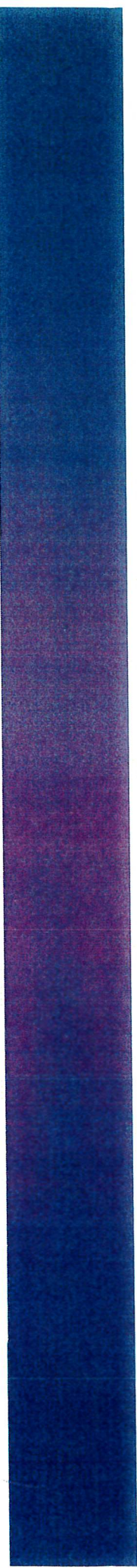
Yolima.cureton@yahoo.com



Meeting Rules and Procedures

Lancaster County, SC

Local Leaders Statewide Strength



Rules on Motions

- Any business conducted by the body must be done by way of a motion.
- All motions should be made in the positive
 - Approve or deny
- Main Motions: (R10)*
 - Brings a matter before the body
 - Legislative bodies generally recognize introduction of a matter after adoption of the agenda
 - Out of order if any other motion is pending
 - A motion can be made to take an issue up out of order, must receive a second



*numbers in () indicate Robert's Rules of Order Newly Revised
12th edition

Subsidiary Motions

- Subsidiary Motions act upon the pending Main motion
 - Refer (13), Table (17) and Postpone (14)
 - Limit/extend debate (15)
- Most common is motion to amend (12)
 - Strike, Insert or strike & Insert
 - Can have multiple substantive motions
 - Taken up in order of precedence working backwards
 - All amendments must be germane to the main motion
 - Germaneness is a determination of the Chair



Privilege & Incidental Motions

- Points of Order (23) and Inquiry (33)
- Appeal ruling of the Chair (24)
- Recess (21) and Adjourn (22)
- Renewal (38) and dilatory (39)



Motions Related to Voting

- Call the Question/Previous Question (16)
 - By the Chair at the conclusion of debate (16.11)
 - By a member with 2/3 vote if the motion cuts of debate prematurely (16.2)
- Right of Abstention: **Section 5*** (45.3)
- Changing votes: (45.8)
- Method of voting: (45.11)



*County rules of procedure

Procedures Applicable to Quasi-Judicial Boards & Commissions

- 1. Public & Applicant Notice**
- 2. Applicant Hearings and Evidence**
 - * Constitutional protections**
- 3. Written decisions and records of actions**



Public & Applicant Notice

- There may be additional notice requirements for certain types of hearings
 - Written notice to individual parties
 - Statutory mailing requirements
 - Physical posting at subject properties
 - Planning Commission, BZA
 - Conspicuous locations



Rights of Applicants

- Applicants must be granted their Due Process and Equal Protection rights – 14th amendment (US Constitution)
 - **Due Process**: the constitutional right to
 - Notice;
 - A meaningful opportunity to be heard; and
 - Judicial review
 - **Equal Protection**: *similarly situated* applicants must be treated in a like manner using the same rules and procedures
 - Could create an issue of precedence for future applicants
- Avoid Ex-Parte Communications
 - Communications withheld from one or more parties
 - Creates appearance of bias against excluded party
 - Could become grounds for judicial appeal



Decisions

- The body has the authority to approve/affirm, reverse or modify an application or action of staff/officials
- *Majority vote* - Members must be present to vote absent a state statute or specific local rule
- Written decision must be mailed to the parties or developer (land development application)
 - Certified if statute or rules require it.
 - Each conclusion of law and finding of fact must be separately stated



Appeals from Decisions

- Appeal by *Parties in Interest*
 - *Citizens for Quality Rural Living v. Greenville Cnty,*
2019
- Applicant bears the burden of proof in any appeal
- Filing timelines are statutory and mandatory
 - Generally, a 30-day requirement
- Appeals to Circuit Court



Ethics & Responsibilities

- *SC Ethics Act*: Prohibits use of office/employment for financial gain
- Officials must recuse themselves from consideration and vote on any matter they have a “economic interest” in.
 - Interest greater than that of the general public/or large class of **\$50** or more
- File a recusal letter/form with the chair outlining the conflict
 - Must be read into the minutes



Recusal by a Member

- Member can not participate in any part of a discussion of the conflicted matter
 - Ethics Commission: leave the room if possible
 - If you can't leave the room – avoid any action that could be read as influencing discussion/vote
- Member can not vote on the matter
 - *Anderson v. Preston*: conflicted votes will be invalidated and can't be counted in a quorum
 - SC doesn't follow the *Single Tainted Vote* rule.



Other Ethics Issues

- Personal bias – not an economic interest
- Pitfalls of Social Media
 - Personal vs. Official pages
 - Personal comments on pending or anticipated matters before the body
 - Appealable issue of bias
 - Potential for liability



Questions?

John DeLoache

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Annual Planning & Zoning Webcast:

Thursday November 13, 2025

9:30 – 12:30

www.SCcounties.org



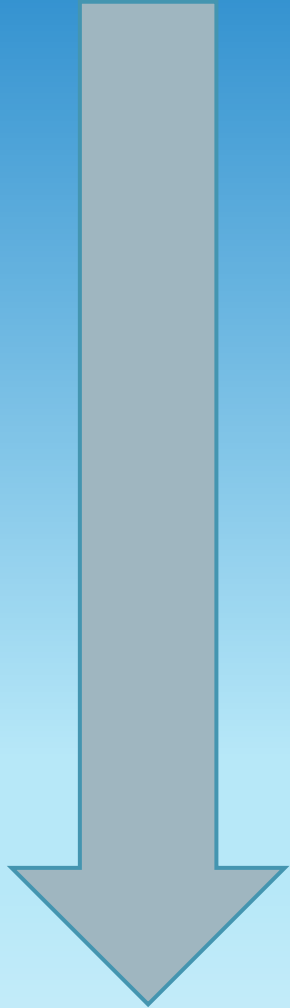


NOTICE

WE ARE PRESENTLY
NOT OPEN BECAUSE
WE ARE CLOSED

FOIA - MEETINGS & EXECUTIVE SESSIONS

What we need to discuss:



- ☐ FOIA “In a Nutshell”
- ☐ Meeting Requirements
- ☐ Executive Sessions
- ☐ Consequences of Violations
- ☐ Best Practices

Why do we have FOIA?

TRANSPARENCY – OPEN GOVERNMENT – CITIZEN INPUT – CITIZEN AWARENESS

SECTION 30-4-15. Findings and purpose.

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

What does FOIA deal with?

- ❑ Provides for access to public documents
- ❑ Provides for notice of and access to public body meetings

Who does FOIA apply to?

Answer: Any public or governmental body or political subdivision of the State.

- ✓ State Departments, Boards, Commissions, Agencies, Authorities
- ✓ County, City and Town Councils
- ✓ School Districts
- ✓ Special Purpose Districts
- ✓ Public Utility Boards
- ✓ Standing or Ad Hoc Committees; Subcommittees; Advisory Groups (Boards and Commissions)
- ✓ Staff Committees if Committee is making recommendation to ruling body*
- ✓ Organizations that receive public funds; supported by public funds

What is a meeting and what makes it open or closed?

South Carolina Code Annotated §30-4-60 (Freedom of Information Act) states:

“Every meeting of all public bodies shall be open to the public unless closed pursuant to §30-4-70 . . .”

South Carolina Code Annotated §30-4-20(d) defines a “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 “Quorum” is thereafter described as:

“a simple majority of the constituent membership of a public body (unless otherwise defined by applicable law).”

What does FOIA prevent?

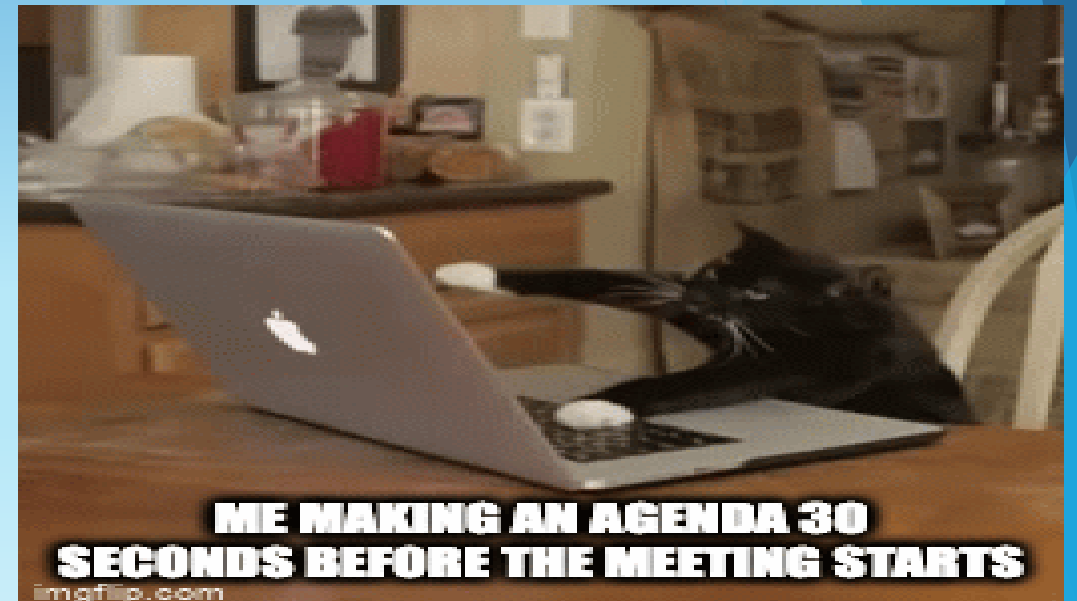
- ▶ SC Code Ann. §30-4-70(c) protects against chance meetings, social meetings, or electronic communications which may be used to act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.”

- ▶ What about Social Media?
 - ❖ Ex. – Board Member A posts on their Facebook page about an issue being discussed by the Board. Board Member B comments. Board Member C comments. The Board has 5 members
- ▶ What about E-Mail?
 - ❖ Ex. – Board Member B sends an e-mail to the entire Board about an item on the upcoming meeting agenda. Board Member C responds. Board Member D responds. The Board has 5 members
- ▶ What about Text Messages?
 - ❖ Ex. – Board Member C sends a group text message to the entire Board about a concern they have with personnel. Board Member D responds. Board Member E responds. The Board has 5 members
- ▶ What about a get together?
 - ❖ Ex. – Board has been invited to attend the grand opening of a new County building. All 5 Board Members show up. The Board has 5 members



Agenda?

Notice?



How does a meeting comply with FOIA?

1. Notice & Agenda

SC Code Ann. §30-4-80 provides requirements for the Notice of meetings of public bodies.

NOTICE REQUIREMENTS

- ✓ The schedule of regular meetings must be posted at the beginning of each calendar year
- ✓ Agendas for regular and special meetings must be posted at least 24 hours prior to the meeting
- ✓ Agendas must be posted at the main office and on your website if you have one or where you conduct the meeting
- ✓ Notice must include the agenda, date, time and place of the meeting
- ✓ Agenda must be given to media and any person who requests receipt of notice

AGENDA REQUIREMENTS:

- A public body must create an agenda for all regularly scheduled and special-called meetings
- No items may be added to the agenda within 24 hours of the meeting
- Changes to the agenda within a meeting must be approved by a 2/3 vote of members present
- Added items that are final reading or will not allow for public comment must be approved by a 2/3 vote of members present and must be “emergency or an exigent circumstance”
- Exigent Circumstance = An urgent need or circumstance / a situation or circumstance that requires immediate action
 - COVID
 - Natural Disasters
 - Impending Weather
 - Time-Sensitive Issues

2. Public Hearings:

SC Code Ann. §4-9-130 requires that after notice, not less than 15 days after publication, public hearings are required for the following:

- ▶ Adoption of annual budget
- ▶ Appropriations, including supplemental appropriations
- ▶ Adoption of Building Codes
- ▶ Zoning adoption and subdivision regulations
- ▶ Levying taxes
- ▶ Sale or lease of real property owned by the public body

3. Keeping of Minutes

§ 30-4-90. Minutes of meetings of public bodies.

- All public bodies shall keep written minutes of all of their public meetings
- Minutes must include:
 - (1) The date, time and place of the meeting.
 - (2) The members of the public body recorded as either present or absent.
 - (3) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken.
 - (4) Any other information that any member of the public body requests be included or reflected in the minutes
- The minutes shall be public records except where such disclosures would be inconsistent with Executive Session parameters
- All or any part of a meeting of a public body may be recorded by any person in attendance except when a meeting is closed for Executive Session
- The public body is not required to furnish recording facilities or equipment to a member of the public.

3. Keeping of Minutes (cont.)

A member who was absent from a meeting can participate in the approval of the minutes from that meeting by offering corrections or voting. According to Robert's Rules of Order (RONR), absence from a meeting does not prevent a member from correcting or approving the minutes.

Section 41:11 of RONR (12th Ed.) says, in part as follows: *“It should be noted that a member’s absence from the meeting for which minutes are being approved does not prevent the member from participating in their correction or approval.”*

Members are encouraged to participate, even if they were not present, to ensure the accuracy of the official record, as the minutes serve to document the meeting's proceedings.

Why members can participate in minutes approval even if absent:

➤ **Official Record:**

Minutes serve as the official, legally recognizable record of a meeting's actions and decisions.

➤ **Right of Membership:**

Members have the right to participate in the approval process, which includes correcting errors.

➤ **Ensuring Accuracy:**

A member might have knowledge of a specific error in the minutes, even if they were absent from the meeting, and should be allowed to provide corrections.

➤ **No Requirement for Prior Knowledge:**

A member is not required to have been present for all the discussion or debate to vote on the minutes.

➤ **Local Rules of Procedure Require Voting:**

The adopted Rules of the Planning Commission require each member to vote unless disqualified by law.

Executive Session - What is it?

SECTION 30-4-70 of the South Carolina Code provides for what meetings may be closed, or held in Executive Session

- There are only five (5) grounds upon which a public body can convene in Executive Session
- Before going into Executive Session the public body shall vote in public on the question and when the vote is favorable, the presiding officer shall announce the specific purpose of the Executive Session
- “Specific purpose” means a description of the matter to be discussed
- No action may be taken in Executive Session except to:
 - (a) adjourn, or
 - (b) return to public session
- The members of a public body may not commit the public body to a course of action by a polling of members or voting in executive session.

Executive Session - Allowed Discussion Topics

There are five subsections that break down into the following categories:

1. Personnel Matters
2. Contractual Negotiations
3. Sale or Purchase of Property
4. Attorney-Client Privilege
5. Investigative Matters
6. Location of Expansion of Services/Economic Development Matters
7. Security Personnel or Devices



Personnel Matters:



Not good enough – “Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee and/or member”

- Do not need to disclose identity of the individual or entity being discussed
- Should list department or division



Discussion of personnel matter(s) regarding employee and/or member of Board pursuant to South Carolina Code of Laws §30-4-70(a)(1) and/or Rules of Procedure/Code of Ordinances.

Attorney-Client Privileged Matters:



Not good enough – “Receipt and review of legal advice”

- Reference adverse party in litigation or a general description of the legal issue to be discussed



Receipt of legal advice subject to attorney-client privilege regarding litigation filed by citizen relative to Board decision

Investigative Matters:



Not good enough – “Investigative proceedings regarding allegations of criminal misconduct”

- Reference alleged misconduct



Receipt of legal advice subject to attorney-client privilege regarding investigation relative to Board Member threats towards another Board Member

Executive Session - How do we take-action?

REMEMBER – NO VOTING OR POLLING

Suggested Wording for Agendas:

- “Public Body may take action on matters discussed in Executive Session;”

OR...

- “Possible actions by Public Body in follow up to Executive Session”

OR...

- “Items requiring a vote following Executive Session”

Executive Sessions – Best Practices

- Provide Notice of Executive Sessions and include the statement of purpose where possible
(NOTE: public body may enter into Executive Session to discuss an issue even if not noticed on the Agenda)
- Notice a General Executive Session on every Agenda, regardless of whether one is needed or not
- Notice action or motions arising from Executive Session on every agenda regardless of whether an Executive Session is planned
- Presiding Officer should state the purpose in Executive Session even when included on the Agenda
- Never conduct a vote or poll during Executive Session

What happens if we violate FOIA for records or meetings?

- S.C. Code §30-4-100 allows for any citizen to seek injunctive relief and attorney's fees for violations
- “A violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists”
- Any citizen of the State may bring an action in Circuit Court alleging a violation of FOIA
- Initial hearing must be held within 10 days, but Court will likely not hold a final hearing for up to six months
- The Court may order any equitable relief that it considers appropriate including **invalidating underlying action**
- The Court may grant the challenging party attorneys fees and costs

Something to Think About



Executive Session allows us to meet behind closed doors – but does it protect what we actually discuss behind closed doors?

FOIA and SC Code Ann. §30-4-70 allows the public body to convene behind closed doors and out of the view of the public to discuss certain items that, by design, need to remain protected (at least for a period of time)

BUT

FOIA and SC Code Ann. §30-4-70 does not protect what you discuss (ultimately) because most of what you discuss under the allowances becomes public record – or at least the product of those discussions becomes public record

- ❖ A contract, once executed, will become a public record
- ❖ A purchase or sale of property will become a public record
- ❖ An investigation will, more than likely, ultimately become public record and reported
- ❖ An Economic Development project will ultimately become public record and reported
- ❖ A personnel matter may, ultimately, become a public record perhaps through reporting or personnel files

But what about the discussions themselves?

FOIA and SC Code Ann. §30-4-70, however, does not protect the actual discussions you have behind those closed doors

- ❖ For example, if you discuss a personnel issue and ultimately take action on that issue, under oath, you could be required to testify as to those discussions

UNLESS

The discussion is considered to be and actually does receive legal advice subject to attorney-client privilege

THEREFORE

If you are discussing matters which are legitimately in need of legal advice, best to have an attorney in the room with you

And best to use the phrase “Receipt of legal advice subject to attorney-client privilege regarding _____”
when placing the item for discussion on the agenda

Questions???

