

# FOIA Update: Meeting Agendas

## (June 2015)



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### Public Meeting Notice and Agenda Requirements *(resulting from S11 signed by Governor Haley June 8, 2015)*

#### 1. Public Bodies Subject to FOIA Requirements

- a. All public bodies, which include municipal councils, public utility boards, municipal planning commissions, boards of zoning appeals, architectural review boards and all other boards, commissions or committees appointed by council, are subject to public meeting notice and agenda requirements contained in Section 30-4-80 of the South Carolina Code of Laws as amended (Freedom of Information Act).

#### 2. Regular meetings

- a. All public bodies must give written public notice of their regular meetings at the beginning of each calendar year. The annual meeting notice must include the dates, times, and places of all regularly scheduled meetings.
- b. An agenda for regularly scheduled meetings must be posted on a bulletin board in a publicly accessible place at the office or meeting place of the public body **and** on a public website maintained by the body, if the public body has one, at least 24 hours prior to such meetings.

#### 3. Special, called or rescheduled meetings

- a. S11 contains conflicting language regarding the posting of public notice and agendas for special meetings and the terms special, called and rescheduled meetings are not defined. Out of an abundance of caution, the Association recommends that all public bodies post a public notice for any special, called or rescheduled meetings on a bulletin board in a publicly accessible place at the office or meeting place of the public body **and** on a public website maintained by the body, if the public body has one.
- b. A public meeting notice must include the agenda, date, time and place of the meeting, and must be posted as early as is practicable but not later than 24 hours before the meeting.

#### 4. Restrictions on amending an agenda

- a. Once an agenda for a regular, special, called or rescheduled meeting is posted, no items may be added to the agenda without an additional 24-hour notice to the public, which must be made in the same manner as the original posting.
- b. After the meeting begins, an action item, which is not a final action and for which public comment has been or will be received at a publicly noticed meeting, may be added to the agenda by a two-thirds vote of the members present and voting (*see the flow chart produced by the Municipal Association and the SC Press Association on the back of this page for more information regarding the process for amending an agenda*).
- c. After the meeting begins, an action item, which is a final action or for which there will be no opportunity for public comment, may be added to the agenda by a
  - i. a two-thirds vote of the members present and voting and
  - ii. a finding that an emergency or exigent circumstance exists (*an exigent circumstance would be considered an urgent or time-sensitive issue*).

#### 5. Other Provisions

- a. Public meeting notice and agenda requirements do not apply to emergency meetings of public bodies.
- b. S11 makes it clear that the requirements of Section 30-4-80 of the South Carolina Code of Laws as amended does not relieve a public body of any notice requirement regarding any statutorily required public hearing. This means the above listed public notice and agenda requirements must be met in addition to any other public hearing requirement imposed by state law. For example Section 6-1-80 requires a public hearing prior to adoption of the annual budget and provides specific requirements in terms of the size, location and content of the public hearing notice. These requirements would need to be met in addition to posting the notice and agenda as described above.

# Procedure to add item to a public meeting agenda within 24 hours of the meeting

