

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

April 5, 1991

The Honorable Warren K. Giese
Senator, District No. 22
608 Gressette Building
Columbia, South Carolina 29202

Dear Senator Giese:

Referencing our opinion to you dated January 22, 1991, concluding that a meeting of a school district board of trustees must be held within the geographic confines of the school district, you have asked whether the conclusion would also apply to city and county council meetings. The earlier opinion construed not only a portion of the Freedom of Information Act, S.C. Code Ann. § 30-4-10 et seq. (1990 Cum. Supp.), but also § 59-1-340 particularly as to meetings of school boards of trustees.

Meeting of county councils are governed basically by § 4-9-110, which provides in relevant part:

The [county] council after public notice shall meet at least once each month but may meet more frequently in accordance with a schedule prescribed by the council and made public. All meetings shall be conducted in accordance with the general law of the State of South Carolina affecting meetings of public bodies

Similarly, the meetings of municipal governing bodies are governed basically by § 5-7-250, which provides in pertinent part:

(2) The council, after public notice shall meet regularly at least once in every month at such times and places as the council may prescribe by rule....

....

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(c) Procedures for meetings of a municipal governing body shall not conflict with the provisions of the general laws of the state with regard to freedom of information.

....

These statutes are thus silent on where meetings must be held, but reference to the Freedom of Information Act ("Act") is made in each case and that Act must be followed.

In construing provisions of the Freedom of Information Act, this Office always considers the findings of the General Assembly in adopting the Act:

... 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.

§ 30-4-15. In view of this expressed legislative purpose, this Office has noted that the Act "is a statute remedial in nature and must be liberally construed to carry out the purpose mandated by the General Assembly." Ops. Atty. Gen. dated May 10, 1984; February 22, 1984; and August 8, 1983, among others.

Open or public meetings are mandated by § 30-4-60, which provides: "Every meeting of all public bodies shall be open to the public unless closed pursuant to § 30-4-70 of this chapter." A consideration of § 30-4-70, which permits public bodies to convene in executive session for the limited purposes stated therein, is not necessary to resolve your question. A review of legal authorities shows that there is very little case law on this precise issue.

As noted above, there is a specific statute mandating that school boards of trustees hold meetings within the geographic confines of the school district. § 59-1-340. There is no such statute clearly mandating that county councils or municipal councils hold their meetings within the specific county or municipality. If the General Assembly wishes to impose a requirement upon counties and

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municipalities such as it has imposed on school boards, then a statute similar to § 59-1-340 as to counties and/or municipalities, or an amendment to the Freedom of Information Act, could be expressly adopted.

We recognize the fact that a public meeting of a county or municipal council taking place within the geographic confines of the specific county or municipality would serve to keep the public informed about the activities of their public officials at minimal cost to the public. However, we cannot overlook the absence of a statute such as § 59-1-340 which would be applicable to counties or municipalities. Thus we must conclude that the General Assembly has not seen fit to expressly require meetings of those governing bodies to be held within the geographic confines of the particular county or municipality.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions