

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

March 14, 1989

Thomas A. Babb, Esquire  
Laurens County Attorney  
P. O. Box 670  
Laurens, South Carolina 29360

Dear Mr. Babb:

Attorney General Medlock has referred your recent letter to me for response. You have asked whether it is permissible to elect a Chairman and Vice-Chairman of Laurens County Council by secret ballot.

I am enclosing previous opinions issued by this Office which answer your question. In Opinion No. 84-4, issued on January 17, 1984, this Office concluded that "if a member of council asks that a vote be recorded, then a secret ballot could not be used in that instance." The opinion, relied upon Section 30-4-90(a)(3), Code of Laws of South Carolina (1976 as amended) for this conclusion. Section 30-4-90(a)(3) provides as follows:

(a) All public bodies shall keep written minutes of all their public meetings. Such minutes shall include but need not be limited to:

...

(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.

A subsequent opinion dated April 24, 1984 reiterated this conclusion and stated that "[w]e would advise that where a member of a public body asks that a vote be recorded, a secret ballot may not be taken in that instance."

Mr. Babb  
Page 2  
March 14, 1989

Thus, this Office has previously stated that in accordance with the Freedom of Information Act, where a member of council asks that a vote be recorded a secret ballot may not be used. You indicate in your letter that "[b]y a vote of 4 to 3 Council adopted a resolution to elect Chairman and Vice-chairman by secret ballot." Of course, whether or not a member objects to use of a secret ballot is a factual question beyond the province of an Attorney General's opinion. However, if three members of Council were voting against use of a secret ballot, Section 30-4-90(a)(3) of the FOIA would control.

If we can be of further assistance, please let us know. With kind regards.

Very truly yours,

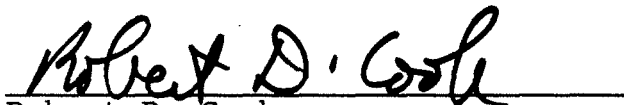


Charles H. Richardson  
Assistant Attorney General

CHR/an

Enclosures

REVIEWED AND APPROVED BY:

  
Robert D. Cook  
Executive Assistant for Opinions