

## The State of South Carolina



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July 24, 1987

The Honorable Charles L. Powell  
Senator, District No. 4  
Post Office Box 1127  
Abbeville, South Carolina 29620

Dear Senator Powell:

You have asked for the opinion of this Office whether a public body is required to keep verbatim minutes of its public meetings pursuant to the Freedom of Information Act, Section 30-4-10 et seq., Code of Laws of South Carolina (1986 Cum. Supp., as amended). For the reasons following, it is our opinion that verbatim minutes are not required by the Act, but neither are such prohibited if the public body wishes to keep minutes in that fashion.

Section 30-4-90 (a) of the Code provides the specific details which must be included in the minutes:

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

- (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.

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(4) Any other information that any member of the public body requests be included or reflected in the minutes. [Emphasis added.]

Other requirements as to information to be reflected in the minutes are found in statutes such as Section 30-4-80(e) of the Code, which requires that efforts made to notify news media of public meetings of public bodies be noted in minutes of the meetings.

Subsection (3) requires that the "substance" of matters "proposed, discussed or decided" be reflected in the minutes of the meeting of the public body. The term "substance" is defined as "essential and material parts, its essence, or an abstract or compendium of its substance, such as would give the people fair information of what it was." State, on Inf. of Murphy v. Brooks, 241 Ala. 55, 1 So.2d 370 (1941). The substance of a statute would necessarily "contain every essential element required to be inserted in such provision to the end that it may be clear and unmistakable as to its meaning," for example. Kocak v. Metropolitan Life Insurance Company, 144 Misc. 422, 258 N.Y.S. 937, 940 (1932). The substance of a matter, i.e., a legal pleading or criminal charge, is that it "comprehends all of the essential or material elements necessary" to sustain a cause of action or maintain a criminal prosecution. Hogan v. Aluminum Lock Shingle Corp. of America, 214 Or. 218, 329 P.2d 271, 273 (1958); see also McCoy v. State, 92 Okla. Crim. 412, 223 P.2d 778 (1950).

In trying to determine the substance, or essential elements, of a matter to be reported in the minutes of a public body, it is helpful to keep in mind the purpose of the Freedom of Information Act, as expressed in Section 2 of Act No. 593 of 1987 and now codified as Section 30-4-15 of the Code:

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

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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.

As we have repeatedly advised, the Act is to be construed or interpreted liberally to effectuate the remedial purposes of the Act. See South Carolina Dept. of Mental Health v. Hanna, 270 S.C. 210, 241 S.E.2d 563 (1978). Whatever detail is necessary to adequately describe the essence of a matter discussed, proposed, or voted upon to keep the citizens apprised of the activities of the public body and its officials would be the minimum requirement to comport with the terms of the Act. Of course, the public body is not limited to detailing only the substance of a matter in its minutes; more than merely the substance may be included if the body so desires. Indeed, subsection (4) requires the minutes to reflect or include other information as requested by any member of the public body.

In conclusion, we advise that the Freedom of Information Act does not require that verbatim minutes of a meeting of a public body be kept; however, if the public body wishes to keep verbatim minutes, such is not prohibited by the Act. Further, if a member of the public body requests that specific information be reflected or included in the minutes, that information must also be included or reflected in the minutes, as well. The items required by the Act to be included in the minutes are the minimum details and may certainly be expanded upon by the public body.

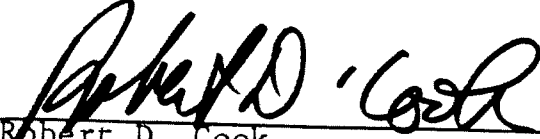
With kindest regards, I am

Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

  
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Executive Assistant for Opinions