

1976 S.C. Op. Atty. Gen. 252 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4407, 1976 WL 23025

Office of the Attorney General

State of South Carolina

Opinion No. 4407

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*1 The North Charleston ordinance providing for the holding of conference meetings adopts the Freedom of Information Act as a guideline for the determination of when those meetings should be public.

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QUESTION PRESENTED:

Does the reference to the Freedom of Information Act in Section 2–14 of the North Charleston ordinances require that the Act be used as the guideline for the determination of when the conference sessions provided for in Section 2–14 must be public?

AUTHORITIES CITED:

Code of Laws of South Carolina, 1962, as amended, Section 1–20, et seq.

Code of the City of North Charleston, Title 2, Sections 2–13 and 2–14.

DISCUSSION:

Although the section is not explicit, it seems likely that Section 2–14(a) of the North Charleston ordinances was intended to permit the holding of conference sessions provided that the meetings are in compliance with the Freedom of Information Act. Section 1–20, et seq., 1962 Code of Laws of South Carolina, as amended. In such a case, the North Charleston ordinances would not be in conflict with the Act, but instead, would be modified by its provisions. The Act thus becomes the guideline as to whether a conference, because of its nature (public or non-public), would be permissible.

Although it might be arguable that Section 2–13(c) of the North Charleston ordinances would require that all conference sessions be public despite exceptions in the Freedom of Information Act, it seems that Section 2–13 by its reference to regular and special meetings was intended to refer to proceedings other than conference sessions. That different provisions are made in Section 2–13(b) and Section 2–14(b) for the giving of notice to the press serves to indicate that 'meetings' and 'conferences' are distinguishable under the North Charleston ordinances.

Under the Freedom of Information Act guideline, Section 1–20.3(a), all such conference sessions would have to be public unless a conference could come within the provisions for an executive session under Section 1–20.3(b) of the 1962 Code of Laws of South Carolina, as amended by R698, of May 19, 1976. Thus a conference could be held on a non-public basis if termed an executive session under Section 1–20.3(b) or Section 1–20.3(c) and if properly entered into under Section 1–20.3(d). Such an executive session, however, does not appear to be mandatory under Section 1–20.3(d) so that it is conceivable that council could choose always to have a public conference to the extent that the matters discussed are not prohibited by law from being disclosed under Section 1–20.3(c)(4).

CONCLUSION:

The North Charleston ordinance providing for the holding of conference sessions adopts the Freedom of Information Act as a guideline for determining when those sessions should be public.

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