

1980 WL 121060 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 10, 1980

***1 Re: Freedom of Information Act City Council—City of Hanahan**

Theodore B. Guerard, Esquire
Attorney at Law
P. O. Box 1119
Charleston, SC 29402

Dear Mr. Guerard:

This letter is in response to your Freedom of Information Act inquiries earlier this year. The South Carolina Freedom of Information Act ([Section 30-4-60, et. seq. of 1976 Code](#)) requires that all meetings of public bodies shall be open to the public. Section 30-4-20 defines a ‘meeting’ as being the convening of a quorum of a constituent membership of a public body. Unless otherwise defined by applicable law, a quorum constitutes a simple majority of the constituent membership of a public body.

The South Carolina Freedom of Information Act, Section 30-4-80, requires that written public notice of the regular meetings of public bodies be posted at the beginning of each calendar year, such notice to include the dates, times and places of meetings. Any agendas for those regularly scheduled meetings must be posted at either the office or the meeting place of the public body twenty-four (24) hours prior to such meeting. As to special meetings, a public body must post on the bulletin board of either its office or meeting place a public notice of such special meeting at a minimum of twenty-four (24) hours prior to said meeting, and that notice must include any agenda, and the date, time and place of the meeting. That same section requires a public body ‘to make an effort to notify local news media or such other news media as may request notification’. This latter requirement applies to scheduled and to special meetings.

The South Carolina Freedom of Information Act, Section 30-4-110, states that ‘any person or group of persons who willfully violates the provision of this chapter shall be deemed guilty of a misdemeanor . . .’

A special meeting for which no notice was posted would be in violation of Section 30-4-80(a). If this was a mere oversight, as contrasted to a willful violation of the act, a penalty would be inappropriate. Any question as to the validity of actions taken in such meeting would be successfully remedied by readdressing those issues in a later properly called meeting.

As to a meeting held in the home of a member of a public body of which no notice was posted, if a quorum of public body was present and such meeting was not in the nature of an emergency meeting, then the meeting would be a definite violation of the Freedom of Information Act, Section 30-4-80 and Section 30-4-70(c). Again, whether or not there is a violation of Section 30-4-110 would depend on the issue of willfulness. It would be appropriate to consider invalid meetings as incorrectly called closed meetings, to nullify any action taken in those meetings, and to address those issues that arose in a correctly called meeting of that particular body.

It should be stressed that, under Section 30-4-70(c), ‘No chance meeting, social meeting or electronic communication shall be used in circumvention of the spirit of requirements of this chapter to act upon a matter of which the public body has supervision, control, jurisdiction or advisory power’.

***2** Please do not hesitate to contact me if I may be of further assistance to you.

Sincerely,

Judith Evans Finuf
Assistant Attorney General

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