

1980 WL 121071 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 17, 1980

*1 Mr. F.G. Scurry
Director
Division of Mining and Reclamation
S.C. Land Resources Commission
2221 Devine Street
Suite 222
Columbia, South Carolina 29205

RE: Telephonic meetings of Mining Council

Dear Mr. Scurry:

I must apologize for taking so long to answer your letter of October 30, 1980 requesting an opinion from me as to whether or not the Council may meet by a conference telephone call. Rather than cause you any further delay, I have decided to respond to you with this letter instead of a formal opinion of this office. However, I feel that you need a formal opinion for your file, and by copy of this letter I will forward your letter of September 4, 1980 to Judy Finuf, Assistant Attorney General, who handles Freedom of Information Act questions for our office. Ms. Finuf will then respond to your question.

I have read several times our State Freedom of Information Act, which is codified at [Section 30-4-10 of the Code of Laws of South Carolina](#). After reading the Act, it is my opinion that you may hold conference telephone call meetings to handle petitions for the promulgation, amendment or repeal of regulations such as those Ned Sloan has forwarded to you in recent days. Section 30-4-20 subparagraph D of the Freedom of Information Act defines the term "meeting" as "the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power." Thus, it appears that a convening of your Council by telephone was at least contemplated by the Freedom of Information Act. The only section of that Act which could come into play is Section 30-4-70(C) which provides as follows:

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 over which the public body has supervision, control, jurisdiction or advisory power.

It therefore appears that any telephonic meeting which you have must comply with all provisions of the State's Freedom of Information Act. This would include the provision set forth in [Section 30-4-60 of the Code](#) to the effect that all meetings of the Council shall be open to the public. It would also include the requirements for giving notice of your meetings and keeping minutes of your meeting, which requirements are set forth in Section 30-4-80 and [Sections 30-4-90 of the 1976 Code of Laws as amended](#). Copies of these sections are attached for your reference.

It is my opinion, however, that an electronic or conference call meeting could be structured to comply with all the requirements of the Freedom of Information Act. In order to comply with the openness requirement and to provide a place wherein the meeting could be attended by interested members of the public, I would recommend your placing a speaker telephone in a conference room or other gathering place in the Commission offices which would allow several persons in a room to monitor what was taking place in the meeting and to communicate with Commission members as needed. I think this vehicle would be particularly appropriate in handling such requests as those made by Mr. Sloan, regarding the promulgation or repeal of regulations which

have just been passed by the Commission during the last legislative session. This would prevent your convening special meetings in Columbia within thirty (30) days after receipt of such a request.

*2 I hope that this letter is of assistance to you. By copy of this letter I am requesting Judy Finuf of this office to provide you with an Attorney General's opinion on this subject.

Yours very truly,

M. Richbourg Roberson
Assistant Attorney General

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