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South Dakota Municipal League

Council Meetings 101: Basics on Procedures

Just a meeting...right? Nothing to worry about...right? I just need to show up and vote...right? Council meetings, although, seemingly simple can become complicated. Such meetings involve many procedures, statutory direction and ethical obligations.

Open Meetings Law

The open meetings law (SDCL Chapter 1-25) is intended to encourage public participation in government. The provisions of this idea are contained in three different statutes. Meetings subject to the direction of these statutes are those meetings of boards and commissions which are created by law OR which are entitled to receive revenue directly from public tax funds. Therefore, all your city meetings must comply with the open meeting requirements. If ever: (i) a legal quorum of your entity is present at the same place and at the same time and (ii) public business, meaning any matter relating to the activities of the entity is discussed, you must notify the public in the appropriate manner in the appropriate time frame.

[The Guide to Open Meetings Law](#)

The open meetings law requires that all public bodies prominently post a notice and copy of the proposed agenda, that is visible, readable, and accessible, at the organization's principal office at least 24 hours PRIOR to the meeting. The notice shall also be posted on the public body's website as soon as possible if one exists. Special provisions exist for special or rescheduled meetings. The notice must be delivered in person, by mail or over the telephone to all local news media that have asked to be notified (SDCL 1-25-1.1).

There are specific circumstances where a meeting can be closed to the public and the media (Executive Session). Such circumstances include (SDCL 1-25-2):

1. The elected officials may discuss the qualifications, competence, performance, character or fitness of any officer or employee including prospective officers or employees. Contractors are not included in the term officer or employee.
2. The elected officials may consult with their attorney or receive communication from their attorney about proposed or pending law suits or contract problems.
3. The elected officials may prepare for labor negotiations with the municipality's employees.
4. The elected officials may discuss marketing or pricing strategies of a business owned by the municipality (electric, liquor, telephone, etc.) if public discussion may be harmful to the competitive position of the business. This includes utility boards.

In addition, when a municipality or an economic development corporation receiving municipal funds is considering furnishing assistance to a business, and has made or received material or data consisting of trade secrets or commercial or financial information regarding the operation of that business, such discussion or consideration may be done in executive session closed to the public (SDCL 9-34-19).

Please keep in mind, however, no official action (votes) may be taken in such a private meeting...and you must disclose the purpose of the executive session. Such purpose must be included in the minutes of the meeting (SDCL 1-25-2).

In order to go into an executive, or closed, meeting a majority vote of the governing body is required. The matters discussed during the executive meeting are restricted to the purposes specified in the motion to go into executive session.

An open meetings commission has been established by the Attorney General's Office to investigate and determine whether a violation occurred. Additional information regarding this set of laws can be found on the SDML website. The Attorney General's website (<http://atg.sd.gov>) also has further information regarding the laws.

Meeting Procedures

All municipalities are encouraged to establish some model under which to operate...whether this is Robert's Rules of Order or some other procedure. Although state law provides certain parameters regarding how business items are handled, the city has some discretion over their parliamentary procedure. These procedures might govern everything from rules for public participation to how motions are made.

Motions and Resolutions

To conduct business, the city council takes one of three actions: motions, resolutions or ordinances. Ordinances are a permanent legislative act within the limits of municipal power. A resolution on the other hand means any determination, decision, or direction of the governing body of a municipality of a temporary or special character for the purpose of initiating, effecting, or carrying out its administrative duties and functions. Resolutions and motions are practically synonymous.

To conduct any business a quorum must first be present. A quorum is a majority of the elected body. Then, a majority of the elected body must affirmatively vote on a particular action for passage. Reading and publishing requirements follow the introduction of an ordinance or resolution. Unless an ordinance or resolution is drawn to take effect immediately upon passage, all ordinances and resolutions become effective on the 20th day after passage and publication.