



UPTOWN

a publication of the municipal association of south carolina

HLAD speakers address roads, taxes and power shifts



HLAD attendees from South Carolina's cities and towns walked to the State House to meet with their legislators.

The 2017 Hometown Legislative Action Day put legislators and state agency directors in front of local officials to bring state perspectives to issues important to local governments.

The goal: revenue-neutral tax changes

A House ad hoc committee has been looking at the state's tax system since the summer. The House Tax Policy Review Committee is studying the state tax code and submitting suggestions for reform to the House speaker. "Any money we would capture would be used to reduce rates," said Rep. Tommy Pope of York County, who chairs the committee.

Pope and other members explained the delicate nature of trying to eliminate any of the dozens of sales tax exemptions.

One idea that was floated as an exercise — to start from zero exemptions and work backward — drew a warning from at least one lobbyist, recalled Pope. "He said, 'If you even do this as a case study, all the businesses are leaving,'" said the committee chairman.

Rep. Mandy Powers Norrell of Lancaster County, one of four committee members who addressed local officials at HLAD, said some sales-tax exemptions seem easy to target but prove to be just the opposite.

"We find an exemption like the bundling twine exemption, and we think, 'Oh, we can get rid of that exemption,' ... Then the lobbyists come in and explain to us why we need the bundling twine exemption, and if we don't have the bundling twine exemption, then we're going to kill businesses in our municipalities."

The panel is looking at structural changes to the entire process, such as moving from a one-year budget cycle to a two-year budget cycle and possibly creating a standing subcommittee of the budget-writing House Ways and Means Committee to focus solely on revenue, according to Rep. Chandra Dillard of Greenville County.

"Our tax code is very convoluted," said Rep. Joe Daning of Berkeley County. "We're there to try to straighten it out and to figure out how some of it is actually working, and if it's not working, how can we fix it?"

On the topic of business licensing proposals, lawmakers said feedback they've received indicates that business owners don't mind paying the tax, but they would prefer to do so in a one-stop, uniform manner instead of using different processes

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Lexington Mayor Steve MacDougall moderated an HLAD panel of House members who serve on the House Tax Policy Review Committee, Representatives Tommy Pope of York County, Mandy Powers Norrell of Lancaster County, Chandra Dillard of Greenville County and Joe Daning of Berkeley County.

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for each municipality where they do business.

New member makeup, new atmosphere

Senate Majority Leader Shane Massey of Edgefield and Senate Judiciary Chairman Luke Rankin briefed HLAD attendees on the implications of the new member makeup of the S.C. General Assembly, former Gov. Nikki Haley's new position as United Nation ambassador and former Lt. Gov. Henry McMaster's move to the governor's office.

Since his election in 2007, Massey said his own seniority within the S.C. Senate went from 46 (out of 46) seats to 19, as the November election ushered in eight new senators. Massey predicted a different kind of Senate will emerge.

"You're going to see more willingness to talk to you, more willingness to ask you, 'What do you need?'" said Massey. "There's going to be more willingness to talk to people as opposed to a top-down approach of, 'This is the way it's going to be because that's what we say it's going to be.'"

Sen. Luke Rankin of Horry County, who became the Senate Judiciary Committee chairman in January after the former chairman did not win re-election, also emphasized the new faces and new atmosphere in the legislative and executive branches, noting he expects a new "management philosophy" under McMaster.

'It's time to go in, cities'

National League of Cities Executive Director Clarence Anthony urged local officials to make their voices heard in Washington on public safety funding,

infrastructure proposals and protecting the tax-exempt status of municipal bonds.

"We have to make sure we protect our infrastructure and use our municipal bonding opportunities to fund the needs that we have first," he said. "The money that you save you can put in other parts of your community. That's the bottom line. We're fighting hard to protect tax-exempt 'muni bonds' for cities."

Nationwide, municipal bonds finance 78 percent of road miles, 500,000 bridges, 95 percent of water infrastructure, 1,000 mass transit systems and 16,000 airports, according to the NLC. President Donald Trump has said he wants to make changes to the U.S. tax code, leading to concern that the tax-exempt status of municipal bonds may be reconsidered. However, the new president has expressed a willingness to leave the status unchanged.

Anthony noted that the new power landscape in Washington, D.C. includes a new administration, seven new senators, 55 new House members and a single party, the Republican Party, controlling both the House and Senate in addition to the White House.

Anthony expects to see significant spending on public infrastructure in the next four years, as Trump has proposed 50 projects, many including bridges, airports and seaports. But as with Democratic President Barack Obama and the others that preceded him, Anthony said that NLC will voice support for proposals that benefit local governments and fight the ones that don't, regardless of party affiliation.

"Let's go in on behalf of the people we represent," he said. "We've got to make sure we take action. ... It's time to go in, cities."

Plan for state roads and bridges

The debate over how to fix the roads in South Carolina is usually about dollars.

— How much will it cost to pay for deferred maintenance? (\$11 billion)

— How much does South Carolina spend annually on paving? (About \$415 million. To keep up with needs, that figure should be \$900 million.)

But there's another cost, a human one. S.C. Transportation Secretary Christy Hall laid it out during her address at HLAD. Hall addressed local officials immediately after delivering her State of the SCDOT presentation to the S.C. Senate Transportation Committee.

Over the past five years in the state's rural areas, 6,812 crashes have resulted in either a fatality or serious injury. That's enough to earn South Carolina a tragic No. 1 national ranking.

"We lead the nation on the fatality rate on our highways. We are actually more than 50 percent higher than the national average. Off the charts. Our neighboring states, Georgia and North Carolina, are closer to the average," Hall said. "That is the real cost of deferred maintenance in our state."

The transportation secretary also noted that in the last 10 months, the department has carried out 75 percent of recommendations of the Legislative Audit Council's recent 350-page audit, established a 10-year plan for widening



National League of Cities Executive Director Clarence Anthony addressed HLAD about national issues affecting cities and towns, including municipal bonds, infrastructure spending and the new power dynamics in Congress and the White House.

programs, and ramped up social media communication and agency transparency.

Hall detailed SCDOT's new, GIS-based, interactive map application called Project Viewer. It allows users to search for all projects by category — such as bridges, widenings and resurfacings — or by all the general projects by county.

"We've been doing a lot behind the scenes," she said.

The transportation secretary also asked the roomful of local officials for help, with a special emphasis on law enforcement, in tackling the specific corridors with high accident rates.

On-demand clerks training pairs knowledge and convenience

The Municipal Association launched the first of a series of online training courses designed to provide municipal clerks with the knowledge necessary to perform their duties. The content of the courses is geared toward providing newly appointed clerks with an option to gain knowledge about the duties and responsibilities of their position. These courses are particularly useful for clerks who are unable to travel to training.

One course, "Role of the Municipal Clerk," lays out how a municipal clerk is appointed in each form of government and the duties and responsibilities of the municipal clerk as outlined by state law. The other course, "Municipal Association as a Valuable Resource," focuses on the Association's services that are designed to assist the municipal clerk.

These free, on-demand courses provide basic general knowledge and information that municipal clerks need. To receive more in-depth training, all municipal clerks can participate in the Municipal Clerks and Treasurers Institute. MCTI is a series of six 2 ½-day sessions with two sessions available annually. The institute covers in detail, with practical

NEWSBRIEFS

The National League of Cities named Lexington Councilmember **Kathy Maness** to its board of directors at the annual City Summit in November. All officers are selected by a 15-member nominating committee and are elected by NLC's membership. Maness will serve her second two-year term on the board of directors.

The **Town of Seabrook Island**, the **City of Columbia** and the **City of Greenville** were named to *Country Living* magazine's list of "26 Under-the-Radar Southern Towns for Girlfriend Getaways."

The **City of Greenville** made the No. 12 spot on the *New York Times*' list of 52 places to visit in 2017. The newspaper praised Greenville's dining options and Swamp Rabbit Trail.

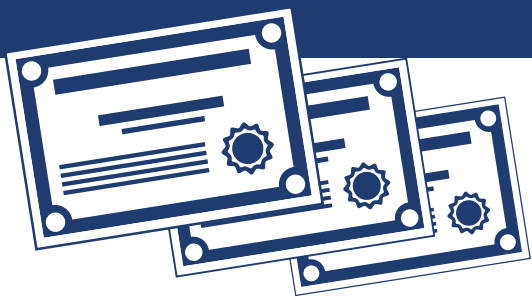
The **City of Columbia** won a \$120,000 U.S. Conference of Mayors' Childhood Obesity Prevention Award. The award will fund supplies for the city's educational gardens, fitness and nutrition instructors, healthy cookbooks, fitness equipment such as jump ropes, exercise balls and agility ladders, and incentives for participants.

examples, how to perform the municipal clerk's duties using the most efficient and effective methods.

Clerks can now access these two free, on-demand courses through the Association's website. With the on-demand option, members can access the courses 24/7.

Over the next few years, the Municipal Association plans to offer additional free, on-demand courses for municipal clerks. Upcoming topics include state and municipal law and council meeting administration.

To get more information about MCTI and the on-demand clerks training visit www.masc.sc (keyword: MCTI; keyword: clerks training).



2017 MEO and Advanced Institute graduates

Fifty-two mayors and councilmembers graduated from the South Carolina Municipal Elected Officials Institute of Government during the February 1 ceremony at Hometown Legislative Action Day. To graduate from the MEO Institute, participants must complete seven required courses — two daylong sessions, and five other courses that can be taken in-person through the 10 offices of the Councils of Governments or online through the on-demand option.

The next in-person session is “Basic Budgeting and Municipal Finance,” which will be held at the COGs on Tuesday, March 14, from 9 a.m. to 12:30 p.m. The deadline to register online is Monday, March 6.

The Advanced MEO Institute’s largest class to date graduated 70 mayors and councilmembers during the Hometown Legislative Action Day ceremony. To graduate from the Advanced MEO Institute, participants must complete four of the six courses offered. Sessions are held in-person annually in February and October. Registration opens in July for the next in-person session on Wednesday, October 25, from 9 a.m. to 4 p.m. at the Columbia Marriott.

To see a complete listing of MEO and Advanced Institute graduates, go to www.masc.sc (keyword: newsroom).

MEO Graduates



Advanced Graduates





A short guide to short-term rentals

The sharing economy, also called “collaborative consumption,” lets consumers share access to products or services, rather than having individual ownership. Today’s most well-known collaborative options include Uber, Rideshare, Lyft, Airbnb and HomeAway.

The same concept, but with a different business model, was possible in the past by posting services or products for rent, in a newspaper or in magazine ads, and through internet posts. What’s changed is that transactions now take place through an app on smartphones allowing easier, more convenient and more frequent transactions. The frequency of these transactions creates regulatory and tax issues for the state and local governments.

South Carolina addressed the regulation of ride-booking services with the passage of “transportation network company” legislation in 2015. Now, the challenge is how to accommodate short-term residential rental services, such as Airbnb, Vacation Rentals by Owner, and similar services, while balancing traditional residential property owner and tenant rights, protecting quality of life, and collecting fees and taxes that are due on these business activities.

Since home sharing has the potential to alter the character of established neighborhoods, many communities are carefully considering the best way to accommodate the demand for these new types of lodging, while still protecting the safety of housing, neighborhood character and land planning goals.

Understanding South Carolina’s regulations and tax treatments for short-term residential rentals is an important step before developing sharing-economy rental policies.

For tax purposes, South Carolina has five general types of short-term rentals:

- **Hotels and motels.** Owners of these commercial properties pay property taxes based on a 6 percent assessment of the value of the property. All taxes, including business license, state accommodations, sales and local accommodations, are owed.
- **Rentals of second homes and investment properties.** Owners of these properties pay property taxes based on a 6 percent assessment of the value of the property. All taxes, including business license, state accommodations, sales and local accommodations are owed.

- **Rentals of primary residential homes between 15 and 72 days per year.** The rental days can be consecutive or nonconsecutive. Property owners maintain their primary residential 4 percent property tax assessment. All taxes, including business license, state accommodations, sales and local accommodations are owed.
- **Rentals of primary residential homes for up to 14 days a year.** Property owners maintain their primary residential 4 percent property tax assessment. Owner revenue from these rentals is exempt from all taxation, including business license, state accommodations, sales and local accommodations. However, a travel company, such as Airbnb, HomeAway and VRBO, through which a rental property is booked and paid, owes taxes including business license, state accommodations, sales and local accommodations. Examples include renting a primary residence during the Masters or RBC Heritage golf tournaments or renting a home for seven college football weekends per year.
- **Rentals of six bedrooms or less in a residential home occupied by the home owner.** Typically these are home owners who rent out a single bedroom or couch in their primary home through Airbnb or other internet platform. The homeowner maintains his 4 percent property tax assessment. Owner revenue from these rentals is exempt from sales taxes and state and local accommodations taxes. Business license taxes are not exempt under state law, therefore, the homeowner is responsible for paying the tax.
Regardless of the type of short-term rental, travel companies, such as Airbnb and Expedia, through which the rental is booked and paid, owe taxes, including business license, state accommodations, sales and local accommodations. Currently, the S.C. Department of Revenue collects state sales and accommodations taxes from Airbnb. Although travel companies owe these taxes, they are not consistently paying business license taxes or local accommodations taxes to local governments.



Cities work to communicate with all

It's not just the right thing to do. It's federal law. Cities are responsible for communicating with all of their residents, including those with hearing, vision or speech disabilities.

The Americans with Disabilities Act prohibits discrimination against individuals with disabilities to ensure that they are afforded the same rights and opportunities as everyone else in all areas of public life. All local governments, regardless of size or number of employees, must comply with the ADA.

"One in five people has a disability," said Kimberly Tissot, executive director of ABLE South Carolina, a nonprofit that provides an array of independent living services to people of all ages with all types of disabilities. "People with disabilities are the largest minority group in the U.S. It's

not difficult to accommodate them. We just have to be willing to do so."

The S.C. Office on Aging has warned of South Carolina's approaching "silver tsunami," a dramatic increase in seniors. As a result, the number of residents likely to suffer diminished hearing and vision, is set to grow significantly.

The U.S. Department of Justice encourages local officials to be proactive in order to comply with the ADA. Public entities should have a general ADA nondiscrimination policy, and specific policies on service animals, effective communication and other ADA topics.

It is illegal to ask individuals about their disability or require them to provide medical papers. There also is no identification required for service animals, Tissot said. That has caused some conflict

over what constitutes a legitimate service animal. Some fake, official-looking harnesses are available for purchase over the internet. However, enforcement can be difficult because the law does not require service animals to wear a harness or marked cloth.

The ADA states that service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the owner's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the law.

Law enforcement

More effective communication and training are needed within the law enforcement and judicial systems,

Tissot said. She said deficiencies in training and communication can result in tragedies, such as the incident last August when a North Carolina trooper fatally shot a deaf person. There is also the potential for a plaintiff in court to be denied rights because of an inability to understand or communicate during proceedings.

Although work remains to reach full compliance with the federal law, many cities are making progress to establish policies and procedures to enforce the ADA and see that everyone is treated equally, she said.

“Really good training is needed to comply with ADA,” Tissot said. Often that responsibility lies with an ADA coordinator, but many cities still do not have one, she said.

City of Greer officials made changes and put an ADA coordinator in place about a year and a half ago after an incident made them aware that they were lagging on accessibility. A visitor in a wheelchair could not get to a meeting room through the building’s accessible entrance after the door was accidentally locked.

“That one closed door, though it created a painful experience for our customer, has opened up many other doors,” said Ruthie Helms, City of Greer building official and ADA coordinator.

Helms immediately began inspecting signage, parking and accessibility to city buildings. She enlisted the help of ABLE to survey and evaluate city facilities. Once the sites were inspected, the city began the work of removing barriers to accessibility. They adopted an ADA policy and established grievance procedures.

Among other steps, Greer officials made their printed materials available in Braille and can arrange for interpreters to be available as needed. They altered council chambers and a kiosk in the lobby of City Hall that provides informative brochures accessible to someone in a wheelchair.

The lectern in council chambers previously provided for people to speak at meetings was not in compliance, so the city replaced it with a table and portable microphone.

“We’re headed in the right direction,” Helms said.

Some measures create ‘undue burden’ for cities

Cities and towns must offer auxiliary aids and services, unless doing so presents an undue financial or administrative burden.

An “undue burden” is defined as a significant difficulty or expense to a local government, according to the U.S. Department of Justice, Civil Rights Division, Disability Rights Section.

If accommodations do amount to an undue burden, the city must provide another effective aid or service, if possible, that wouldn’t impose an undue burden.

“To simply discount the need for accessibility or say that it’s too expensive is not acceptable.”

*- Janet Schumacher,
ADA coordinator for
the City of Charleston*

The impact of changing economic conditions on city resources may also factor into whether a measure is deemed to be an undue burden.

In determining an undue burden, state and local government officials should consider the cost of the particular aid or service in light of all resources available to fund the program, service, or activity, and its anticipated effect on other expenses or operations. A high-level city official no lower than a department head should determine that a particular aid or service would create an undue burden. That decision should be made in a written statement detailing the reasons.

Websites

Under Section 508 of the ADA, agencies must give disabled employees and members of the public access to information that is comparable to access available to others. That includes

adapting information on city websites. Greer officials worked to bring their site into compliance by taking steps like adding titles known as alt tags and captions to all images on the site. Many people with disabilities use assistive technology such as screen readers. Screen readers cannot interpret images unless there is text associated with them.

In the City of Anderson, officials makes every effort to follow Section 508 Standards and W3C Web Content Accessibility Guidelines, which are part of the international Web Accessibility Initiative.

“We are in the process of re-designing all of our websites using a content management system, so we’re still working through all that needs to be done to effectively meet those standards and guidelines,” Lee Boggs media manager for the City of Anderson said, adding that the city’s YouTube videos have closed-captioning.

“The new websites have or will have alt tags, section heads, proper markup, logical tab orders and other measures that help with accessibility. Those measures will take time to implement. However, if a user needs immediate assistance and finds that the content is inaccessible, we strongly encourage them to contact us,” said Boggs.

“We’ll do all that is possible to make the appropriate accommodations.”

The City of Charleston designed its website with a number of accessibility guidelines. The city chose an easily legible, standard font for use throughout the site. Whenever possible, live text is used instead of graphics to reduce the download time of pages and increase users’ control. All images and hyperlinks, where appropriate, have an alternative text attribute. This means when an image or hyperlink is conveying important information, an alternative text describes its content.

“Sometimes we need to get creative, do some puzzle solving,” said Janet Schumacher, ADA coordinator for the City of Charleston. “To simply discount the need for accessibility or say that it’s too expensive is not acceptable.”

Question: “True or false: A budget work session does not require public notice.”



Answer: False.

All budget hearings, including budget work sessions, are public meetings, and must follow state law public notice requirements. That means budget work sessions require a minimum of 24 hours advance notice of the meeting. After the mayor, finance committee chair or administrator/manager (depending on the form of government) has presented the recommended budget, most councils have a budget work session or a series of sessions to carefully review and finalize the budget.

Once a proposed budget has been prepared, state law requires several steps before council can formally adopt the budget.

Posting a public notice about the upcoming budget hearing is the first step in the budget adoption process. The budget hearing notice must be

published in a newspaper of general circulation in the municipality at least 15 days before the hearing, as mandated by state law.

As outlined in S.C. Code Section 6-1-80, the public notice for every hearing, including work sessions, must be at least two newspaper columns wide, have a bold headline and include

- the governing entity’s name;
- the time, date and location of the public hearing;
- the revenue, expenditures and millage for the current fiscal year’s operating budget and for the proposed budget; and
- the millage rate that is required to generate the needed revenue established in the proposed budget.

Once all work sessions are complete, the finalized budget is

presented to council in the form of an ordinance for first reading. State law mandates that all budget ordinances must have at least two readings, with a minimum of six days between each reading.

To make sure all elected officials are knowledgeable about municipal debt and all other areas of local governance, the SC Municipal Elected Officials Institute of Government offers training intended for all levels of experience in municipal office.

The institute offers both in-person and online courses. Elected officials who complete all of the required coursework graduate from the institute and receive a certificate. For more information and to register for the March 14 “Basic Budgeting and Municipal Finance” course, visit www.masc.sc (keyword: MEO).



By Bill Rogers, executive director
of the S.C. Press Association

David Letterman was famous for his Top 10 lists. Coming from the home office in the Midwest, they were a hoot.

Well, here goes a Top Five list of open government questions, based on questions from newspapers to the home office of the S.C. Press Association in Columbia.

Number 5: Can minutes be withheld from release to the public until they are approved?

The answer is no. Once records are created, the Freedom of Information Act says they are public records. Most would interpret that to mean once the clerk types them up and transmits them to the council or her superior, they are public. The law does not say that only “approved” records are public. A good idea is to stamp or imprint “draft” on copies of minutes that have not been approved.

Number 4: Does the FOIA apply to committees council may name, even if they are only advisory?

The answer is yes. If council or the mayor names a committee, that

committee is subject to the FOIA and must properly give notice of meetings. These meetings must be open to the public. Also, minutes must be kept. If a department head sets up a committee that does not report to the council, that committee is likely not subject to the FOIA.

Number 3: When we receive an FOI request, can the city charge the requestor for the city’s attorney to review the documents sought?

The answer is no. The law says, “Fees may not be charged for examination and review to determine if the documents are subject to disclosure.” The best practice is to charge the time for the lowest paid employee who is competent to gather the records being sought.

Number 2: How specific must a council be in stating the reason for an executive session?

The law says the presiding officer must state the specific purpose for going into executive session. There are five listed reasons for closing a meeting to the public

by going into executive session, which is a closed meeting:

1. Discussion of employment, compensation, promotion or discipline of an employee. You must state which of these is the reason. “Personnel matters” has been ruled not specific enough.
2. Discussion of negotiations related to proposed contracts and the sale and purchase of property.
3. Receipt of legal advice dealing with matters covered by attorney-client privilege, including pending or potential legal claims.
4. Investigative proceedings regarding allegations of criminal misconduct.
5. Discussion of matters relating to industrial recruitment.

And the Number 1 question: Can we take a straw poll in executive session?

The answer is no. Council may not commit the public body to a course of action by polling members in executive session.

Remember that openness and transparency in what councils do is not just a matter of law...it is also something that builds the citizens’ trust in your body.



Document-rich websites help cities, reporters and residents

Taking the time and effort to post city documents online can yield greater trust from residents, a better informed community and fewer document searches for city staff to perform.

In the Town of James Island, staff members post extensive records on the town website, including various boards' agendas and meeting minutes for the town's beautification and litter-control board.

"We have 10 employees, so it cuts down on phone calls and work for us," Town Administrator Ashley Kellahan said. "It's a benefit for the public but also to our efficiency in-house."

When the town embarked on its Pinckney Park design and construction project, officials posted the bid invitation so that anyone could view it, not just the bidders. They also posted the short list of architecture firms that would be

interviewed for the town hall project, along with the ultimate winner. Kellahan said any work products from the firms, however, would not be posted due to proprietary constraints.

Public process, public record

The town also showed how posting public records reinforces resident engagement in the community decision-making process. James Island

leaders ranked future park amenities and qualities using a “dotmocracy” method, specifically asking residents to offer suggestions and then to assign color-coded dots to them, which correlated to points. Residents graded individual suggestions by giving it the dot that reflected their level of interest in it.

A grid listing about 50 park suggestions in order of dot-based rank — a special events stage, a canoe and kayak launch, and “marsh left alone” ranked the highest — is posted to the James Island website with an explanation of the process. This not only allowed residents to express their priorities but also to create a public record to document the results.

The town doesn’t post only positive information. Its website also provides detailed crime reports ranging from gunfire incidents to something as small as a shoplifted fountain drink. Neighborhood council leaders disseminate the crime reports on their neighborhood email lists.

“They are very interested in these crime reports,” Kellahan said.

In the City of Greer, city staff has been posting an array of financial reports, including budgets, audits and monthly operational reports on the city website since 2002. In 2010, the city added an interactive dashboard as the next step in its evolution of providing information to residents.

“We wanted to provide an efficient, concise method for our residents to get information on how the city was spending its resources without having to dig through pages and pages of reports, and the interactive dashboard was a great tool to provide that access to information,” said Greer Chief Financial Officer David Seifert.

The city receives approximately 100 hits per month on the financial pages of its website.

“Of course, providing information to our community and residents is part of our responsibility, but the openness and transparency, not just to our financial records, but to everything that we do, is part of our culture,” he added. “It is important to



City of Greer



Town of James Island



City of Newberry



Town of Clover

us to demonstrate the stewardship of the resources that our community provides the city. To that end, we are consistently rated very highly by our residents for providing value for the resources provided by the city.”

Part of the culture

In addition to posting water quality reports and other materials, the Town of Newberry posts monthly financial reports that detail current revenues and expenditures, compared to what they were one year earlier.

“When I entered the local government field, ‘transparent government’ was a buzzword that had been floating around for quite some time,” said City Manager Matt DeWitt.

“I have been fortunate enough to be able to continue these practices in keeping

our residents informed as to how we are managing their tax dollars.”

Like Newberry, the City of Greer maintains a long standing commitment to posting public records.

“Our records have been online for 15 years, and having that information available online has become part of our community’s culture,” said Seifert.

“We regularly refer people to our website for information through press releases, announcements, council and other meetings, and various reports and marketing materials. We want our residents to have as much information as they are able, and to know how to retrieve it.”

In James Island, the same holds true.

“We don’t get a lot of FOIA requests,” said Kellahan. “And I hope that’s because we do have so much information online.”



FOIA requests – how to help both parties

People requesting public documents from cities and towns and the staff members that fulfill the requests under the Freedom of Information Act don't have to be at odds.

Communicating and cooperating on the basics of the FOIA request can bring benefits to both parties.

Local governments remind residents, lawyers, developers, reporters and others requesting public records to narrow the terms of their request, to give cities time

to produce certain records, and at the front end, to make sure the city is the right source for the documents in question.

Cities and towns of all sizes encounter some of the same misconceptions and tendencies from individuals making FOIA requests.

"A lot of times, they just want to see something," said Camilla Pitman, clerk for the City of Greenville. "Sometimes they just want to come in and see the plats or they want to see the fire plan — whatever

it is — so you're making it a little bit more amenable for them by clarifying the mode of document review, as well."

"I do have people walk in the door and say, 'Can I see the minutes from such-and-such?'" said Town of McCormick Clerk/Treasurer Sandy McKinney. Written requests, she said, usually pertain to financial particulars, such as details of the town's lawn maintenance contract and how much the town paid for officials to attend the Municipal Association's Annual Meeting.

For Sunshine Week each March, town council members in McCormick typically affirm their commitment to transparency by passing a resolution, which the local newspaper prints.

In at least one case, said McKinney, someone asked for information that would have been better sought elsewhere — a list of the utility companies that provide services in the area, company names that she said would have been housed at the S.C. Public Service Commission.

But McKinney said the biggest misconception is how much time a public body may take to comply with a request. One requestor asked the town to immediately produce five years' worth of specific documents.

"Many of them think they can walk in the door, and that since we're so small, I'm able to get it on the spot," she said.

No requirement to create a document

Bradford Cunningham, municipal attorney for the Town of Lexington, said the

town's most commonly sought documents are meeting minutes, some type of development-related application that was made, or a building or site inspection report.

But, he said, it's important to note that the town is not required to create a document or tailor the response to a specific format.

"The only responsibility is to provide for inspection and copying of documents already in existence," said Cunningham.

In the City of Hartsville, City Clerk Sherron Skipper said when it comes to FOIA requests, the more specific the better.

"Blanket requests are too broad to even try to answer," she said. "In order to recover our expenses for producing records under FOIA, we have a fee schedule, and we provide an estimated cost to the requestor before we spend staff time researching and preparing information."

Hartsville waives fees in certain circumstances, as shown on the city's FOIA form. These include instances

when another government entity is making the document request or for a project involving the city, such as a multi-county business park, agreements or contracts with the county, or other governmental agency.

FOIA requests from reporters

Pitman said although the news media accounts for only a few of the FOIA requests the city receives, it helps to maintain an open, mutually cooperative relationship with the press.

"The key is we've attempted to be as transparent as possible and provide the information up front," she said. "You want to have a relationship with your media. ... It's locating that fine line of being able to converse and work with them, so they have a comfort level with you and you have a comfort level with them."

After all, said Pitman: "You are the government. They are the residents. That's what they're there for, to check up on you."

Reporters weigh in: What they value on government websites

The S.C. Press Association asked reporters around the state to weigh in on the most valuable resources they find on government websites. Bottom line: The more information online, the better for the newspaper and the public.

- Searchable reports, databases, charts and spreadsheets (Excel and PDF formats).



- Direct contact information and downloadable high resolution headshots of current city officials.
- Municipal budgets, meeting minutes, agendas, check registries.
- Archived videos of meetings.
- Links to the city's social media.
- Accurate and current information that is clearly organized. (Avoid having a site that is not kept up to date.)
- Easy navigation (more important than flashy graphics).
- Supplementary documents when adding PDFs of meeting minutes and agendas.



Remote venues, smartphones can bring open-meeting trouble

Open Government

It may seem like just a casual breakfast at the local diner.

But if a sign ordinance, the town budget or some other official business comes up in conversation, councilmembers may have just held an illegal public meeting.

At issue is whether enough of the town's elected officials were present to constitute a quorum — a simple majority of the public body — and whether they discussed any official business for any amount of time.

If the answer is yes on both questions, those officials held a council meeting. And if no one published a meeting notice pursuant to the 24-hour minimum requirement and other particulars under the law, that public body will have violated the Freedom of Information Act.

The law offers no wiggle room. Calling a meeting a council retreat or a workshop, for instance, doesn't relieve council of public meeting requirements. Also, it doesn't matter if the meeting venue is casual or located many miles from city hall. If councilmembers were to attend an out-of-state conference, for instance, they would still have to avoid gathering in a quorum and broaching topics over which the council has supervision, control, jurisdiction or advisory power.

Whether those in attendance take any formal action is also immaterial to whether the gathering met the definition of a public council meeting.

"It's understandable that members of council are going to find themselves together at separate community events outside of city hall," said Bill Taylor, field services manager for the Municipal Association, adding that these gatherings may include Chamber of Commerce functions, school or even church events.

"The problem comes when members in attendance begin to discuss issues," said Taylor.

It's helpful to consider appearances, too.

"While they may only be discussing the weather or the upcoming football season, it may appear to the other residents in attendance that the group is probably discussing something to do with the city and is doing so outside the purview of the public," he said.

Technology is also testing the boundaries of open meetings law.

It's acceptable for city councilmembers to all be Facebook friends. But if a simple majority of elected officials communicates via the private chat function, Facebook Messenger, they have formed a quorum.

The same goes for any other private social media conversations, cellphone texting among a group of users, emailing among a group, and conference and video-teleconference calls that involve a quorum-sized number of members of a public body and mention of official business topics.

Similarly, elected officials who communicate among councilmembers through their personal electronic devices during a properly noticed public meeting are also in violation of the open meeting law, if official business is mentioned. It's comparable to elected officials whispering among themselves during a city council meeting.

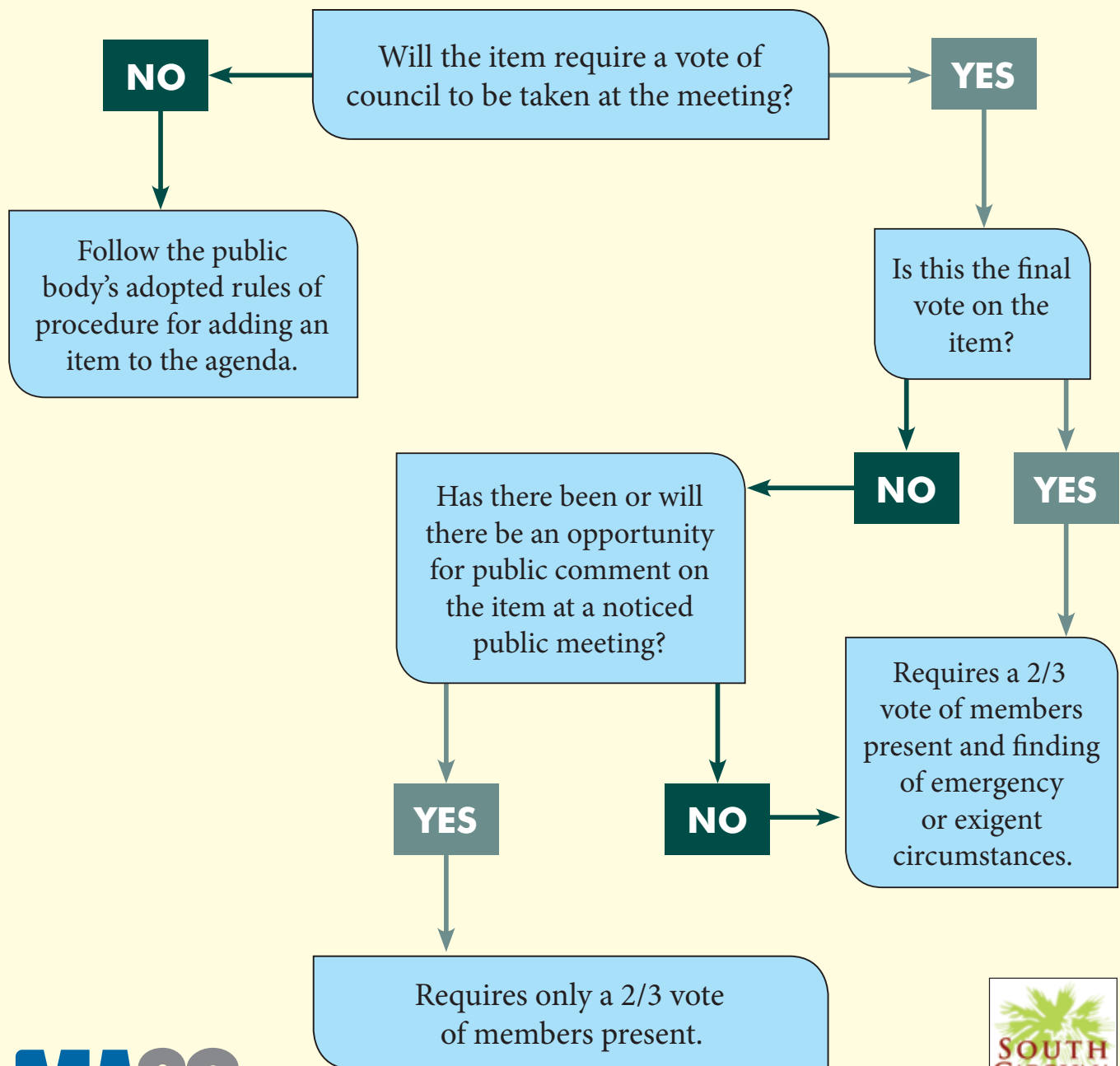
Private electronic communication involving a quorum of council members is equivalent to an illegal electronic executive session. "The convenience of using email and text messages can lead to situations where a majority of the governing body is actually 'meeting' electronically and can be seen as the group making decisions outside of properly noticed public meetings," said Taylor.

"Using 'Send All' and 'Reply to All' settings are dangerous in these instances and should be avoided. Such decisions made via electronic technology can lead to potential challenges by the public."

Procedure to add items to a public meeting within 24 hours of meeting

In 2015, the General Assembly clarified how a public body can amend an agenda for regular, special, called or rescheduled meetings after the meeting has already begun. The new law, Act 70, addressed the posting of meeting notices, stating that meeting agendas must be posted on the public body's website

if it has a website. The law pertains to all public bodies subject to the Freedom of Information Act. The Municipal Association and the S.C. Press Association developed this flowchart to illustrate the process. Additional information about this issue is available in the *Handbook for Municipal Officials*.





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Calendar

For a complete listing of training opportunities, visit www.masc.sc to view the calendar.

MARCH

5-7 SC Utility Billing Association Annual Meeting. Sonesta Resort, Hilton Head Island. Topics include cybersecurity, generational diversity and set-off debt programs.

14 Municipal Elected Officials Institute of Government. Councils of Governments offices. Basic Budgeting and Municipal Finance.

15-17 Municipal Clerks and Treasurers Institute Spring Session - Year 2, Session A. Hyatt Place Hotel, Columbia. Topics include auditing, municipal accounting and cost-effective information technology.

23 Municipal Technology Association of SC Spring Meeting. Columbia Conference Center. Topics include risk management/

cyber liability insurance, utility technology, GIS and in-car technology for police vehicles.

29 SC Association of Municipal Power Systems Legislative Breakfast. S.C. State House.

30 SC Municipal Finance Officers, Clerks and Treasurers Association Spring Academy. Columbia Conference Center. Topics include grants available to cities, how to recruit residents to serve on boards, and how to address disruptions to city hall and city council meetings.

APRIL

7 Municipal Court Administration Association of SC Spring Meeting. Columbia Conference Center. Topics include domestic violence laws, diversion programs and conference planning.

12 Main Street Managers' Meeting. Aiken. Topics include walkable communities, the importance of implementing a vision and a checklist of what makes a downtown attractive to potential investment.

19 SC Business Licensing Officials Association Spring Training and Advanced Academy. Columbia Conference Center. Institute topics include business licensing procedures, the S.C. Freedom of Information Act and licensing coin-operated machines. The Advanced Academy topics include regulating food trucks, researching NAICS codes and communicating with customers.

20 SC Municipal Human Resources Association Spring Meeting. Columbia Conference Center. Topics include law enforcement recruitment and retention and local educational entities that are training students to enter the workforce.

26 (repeated on April 27) SC Association of Municipal Power Systems Linemen Training SCE&G Pine Island, Columbia, SC.

MAY

5 Spring Managers Forum. S.C. Criminal Justice Academy.