



# UPTOWN

a publication of the municipal association of south carolina

## Defeating Conflict Through ‘Courageous Conversations:’ Lehrman Discusses Civility in Government

**M**att Lehrman, the co-founder and managing director of Social Prosperity Partners, posed a simple question to the attendees of Hometown Legislative Action Day in February: how can government leaders move public discourse from conflict to conversation?

“Disagreement is not to be avoided,” Lehrman said. “Human nature is to disagree. My wife and I, we love each other. We still manage to disagree, a large amount of the time ... The question is does it have to be disagreeable? Does the disagreement have to tear us apart?”

Lehrman asked his audience to provide him with the emotions that civic engagement in their community creates. While some of the descriptions were positive — such as “hopeful,” “welcomed,” “invested” or “energized” — others were not, like “frustrated,” “confused,” “angry” or “discouraged.”

He spoke of the purpose of local government — to “enable individuals to join together in recognizing and solving community problems.”

“This is the tension,” he said, “The purpose of local government is to enable individuals on the one hand, and we’ve got to balance that with community needs on the other.”

He offered multiple tips on how to improve civil discourse, beginning with finding ways to affirm community values. Having recently spoken before the North Dakota Municipal League, he

gave the example of an administrator of a small rural town, who told him of a councilmember who refused to have an official email address out of a desire to not be contacted by constituents. She reminded the councilmember that a recent council project defined the town’s core values as teamwork, communication, stewardship, community engagement, and being responsive, among others.

The administrator told Lehrman that when someone had been a part of this conversation, “you can’t *not* have an email address. You can’t *not* respond to people when you have made yourself publicly accountable.”

He noted that necessary conversations can be difficult even in the context of agreed-upon values, and gave the example of “Life, Liberty and the pursuit of Happiness” from the Declaration of Independence as a widely held community value.

“We waste a lot of energy saying, ‘your liberty is infringing on my life. Your pursuit of happiness can’t be at the expense of my liberty.’ I would respectfully say those are real issues.

But even without those issues at play, there’s a lot that we can agree on,” he said. “I’m not saying we shouldn’t take on those hard issues. But I’m also saying sometimes it’s okay to say well what can we agree on that doesn’t put these values at conflict with each other.”



Matt Lehrman speaks during Hometown Legislative Action Day.

[HLAD, page 2 >](#)

### In This Issue

#### Special Section: Open Government

**Legislative Redistricting Follows 2020 Census**

Page 3

**Avoid Accidental Electronic Quorums**

Page 10

**Keep Public Comment Periods Calm**

Page 12

**Maintain Electronic Records Properly**

Page 15

# In this ISSUE

Legislative Redistricting  
Follows 2020 Census ..... 3

News Briefs ..... 3

5 Steps to Improve  
Cybersecurity for Everyone ..... 4

Association Highlight:  
Municipal Court Administration  
Association of SC..... 5

Municipal Elected Officials  
Institute of Government  
Monthly Quiz..... 5

Liability Cap Increase  
Under Consideration..... 6

Elected Officials Graduate From  
MEO, Advanced Institutes..... 7

Business Licensing Essentials:  
How to Calculate Business  
License and Declining Rates .... 7

**Special Section:**  
**Open Government**

'A Requisite for Good  
Government:' Reporters Discuss  
Covering Local Government .... 8

'As Transparent as Possible:'  
Clerks Discuss Agenda  
Management..... 10

Keep Public Comment  
Periods Calm ..... 12

Statements of Economic  
Interest Due March 30..... 13

Avoid Accidental  
Electronic Quorums ..... 14

Maintain Electronic  
Records Properly ..... 15

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HLAD, from page 1 >

Lehrman advocated for “courageous conversations” in which people admit to not having all the answers and showing a willingness to listen. Communication in the form of announcements, press releases and making documents available on a website, for example, does not mean that the government is listening, he said.

“I have attended a zillion outreach meetings. 90% of the outreach meetings I have attended are presentations of information but no listening. So I will acknowledge that the average meetings could be a place for courageous conversation. In practice, they are not often [such a place.]” he said.

He added that, in the absence of forums to talk to the government, residents are likely to turn to the conflict-heavy forums of social media.

“If you don’t create the venue for courageous conversations, others will,” he said.

Lehrman also called for local leaders to handle the emotions of discourse carefully — for example, responding to anger with calmness, responding to fear with caring, or responding to disgust with respect.

Lehrman concluded with a reminder that local leaders serve as role models for civil discourse and problem solving.

“How might we join together to contribute to the recovery and health and collaborative spirit of our community?” he asked. “This is the question you put forth in your community to bring your residents or citizens together. You as the community leaders have the power to empower people to inspire them to energize by inviting them into this conversation.”

## Other Hometown Legislative Action Day sessions

Legislative panel discussions during HLAD featured lawmakers, congressional staff and Municipal Association advocacy staff addressing everything from law enforcement reform to federal advocacy and the issues under discussion at the State House during 2022.

In her remarks as the president of the Municipal Association, City of Rock Hill Councilmember Kathy Pender praised the ways that South Carolina’s cities and



City and town officials visited members of their legislative delegation during Hometown Legislative Action Day.

towns have risen to the challenges of the pandemic. She quoted the recently deceased Archbishop Desmond Tutu, who said that “hope is being able to see that there is light despite all of the darkness.”

“Be that light to your community and to South Carolina,” Pender said. “Be that light to your colleagues, staff and legislators.”

In his remarks, Todd Glover, executive director of the Municipal Association of SC, stressed the importance of personal advocacy from municipal leaders at the State House, and also discussed civility in government as one of the focus areas of the Association’s strategic plan. Matt Lehrman’s presentation served as an inaugural part of this focus on civility.

“We’re losing good public servants because they’re growing tired of dealing with the incivility that we’re having,” Glover said. “We’re losing good people who don’t want to run for office because they don’t want to deal with it. We’ve got elected officials angry at one another, we’ve got citizens angry at our elected officials and we’ve got citizens angry at other citizens. Social media keeps us inflamed 24/7 and half the time, it is not even accurate information. Winston Churchill once said that a lie travels around the world before the truth puts on its pants. That man lived 75 years before Facebook and Twitter. It is difficult, but we can lead the charge to bring civility back to what we do because civility means good government.”

Find audio recordings and presentations from HLAD at [www.masc.sc](http://www.masc.sc) (keyword: HLAD).

# Legislative Redistricting Follows 2020 Census

Every decade, the U.S. Census Bureau conducts a count of people living in each state totaling the entire United States population. This count affects numerous state and federal funding streams, House and Senate legislative districts, and the number of congress members from states, ultimately giving more power to states with more U.S. House members. The 2010 census added a seventh House member for South Carolina — currently-serving Rep. Tom Rice from Myrtle Beach. The 2020 census did not add any congressional seats for the state.

From a state legislative perspective, the census forces the redrawing of South Carolina House and Senate districts, determining what senator or representative represents what areas. Legislators in South Carolina represent single member districts. According to the state constitution, there are 46 senate districts and 124 house districts. These districts are drawn based on the population in the state and in each district.

Based on the 2020 census numbers, House and Senate districts are each designated a certain population amount to include, within a percentage range.

Cartographers and staff must draw each district within a set of state and federal legal guidelines to fulfill the principle of “one person, one vote” in a way that does not discriminate against racial or language minorities.

After public meetings across the state, plan submissions to specially-appointed subcommittees and hours of testimony from different interest groups, House and Senate members proposed and adopted their own plans in December 2021 to redraw their districts to meet the new census numbers.

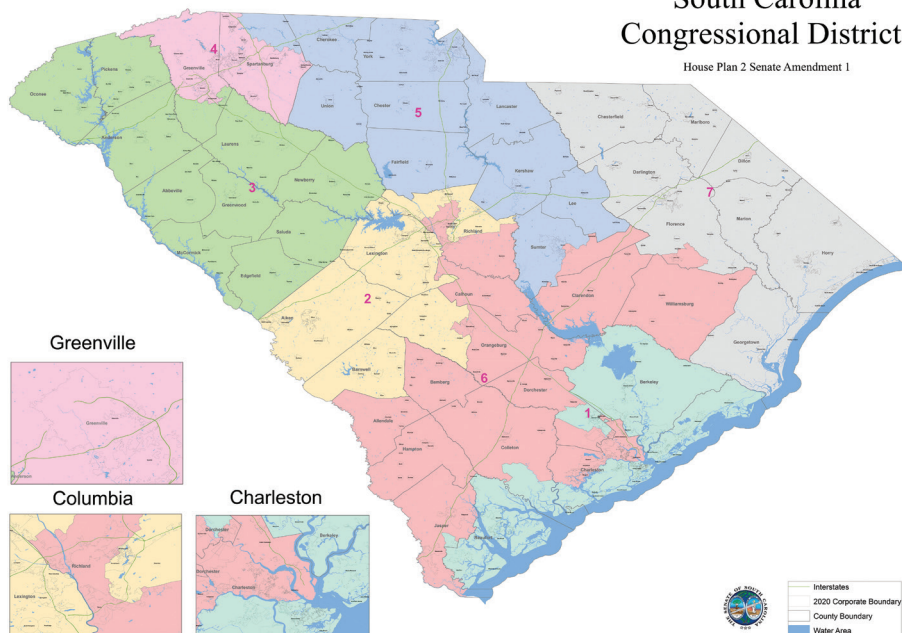
The General Assembly is also tasked with redrawing congressional maps to respond to new growth in the state. Members approved the new congressional plan maps when they returned to Columbia for regular session in January.

Gov. Henry McMaster approved both the House and Senate redistricting plans. However, two groups have filed lawsuits against the House plan and the congressional plan.

*For more information visit [www.scstatehouse.gov](http://www.scstatehouse.gov), where each chamber has its own redistricting website linked on the front page.*

South Carolina Congressional Districts

House Plan 2 Senate Amendment 1



## NEWS BRIEFS

The SC Revenue and Fiscal Affairs Office has recognized the initial local public safety answer points who volunteered to be part of the Phase I implementation to NextGeneration 911 technology, which include the **Batesburg-Leesville Police Department** and the **West Columbia Police Department**.

**Cynthia Wyatt**, municipal clerk/HR director for the City of York, earned her certified municipal clerk designation from the International Institute of Municipal Clerks.

The SC Energy Office awarded grants for a variety of local government energy efficiency and electrification programs at the end of 2021. Recipients include the **Town of Clover** for LED installations at the Clover Community Center, the **Lugoff Fire Department** for LED light installations at its headquarters, and **City of Rock Hill** for two electric vehicle charging stations.

The MissionSquare Research Institute recognized 24 public-sector employers that have implemented programs to improve financial health for employees. The list included the **City of West Columbia** for its program focused on home ownership, retirement planning and other ways of achieving financial success.

# 5 Steps to Improve Cybersecurity for Everyone

By Joe Howland, chief information security officer, VC3

Many cybersecurity best practices and tips often fall to an IT resource to implement. Even basic tools such as antivirus, antispam, or software patching should be overseen by IT professionals.

But let's strip all that away for now. What are some tips that you can do today? Here are a few that will make a huge impact, even if they don't seem like a big deal on the surface.

## 1. Change your password.

Simply changing your password to a passphrase (a very long phrase that's easy for you to remember but nearly impossible for hackers to guess) or a complex password (a long password full of letters, numbers, and special characters) can improve your cybersecurity and decrease the risk of a hack.

## 2. Turn on multi-factor authentication whenever possible.

Many common applications now offer the option of setting up multi-factor

authentication (MFA), the process of adding another layer of protection to your security in addition to a username and password. For example, MFA may require you to first enter your username and password as normal. Then, you will get a code to your phone and input that code into a field that appears after you log in.

## 3. Clean off your desk.

What does desk cleanliness have to do with cybersecurity? An often-overlooked way that an attacker can steal a password is by seeing it on a desk. A disgruntled employee or unescorted guest wandering through your building could take a phone picture of your sticky notes and use the password later to break into your systems. Find another way to remember your passwords other than publicly viewable sticky notes on your desk.

## 4. Be skeptical about suspicious emails, links and attachments.

95% of successful attacks during the past two years began in an email — a person clicking on a malicious link or

attachment. If you are too trusting, you must become more skeptical. Be aware of

- the sender's email address,
- the links,
- the spelling and grammar,
- the urgency, and
- the context.

## 5. Do not download software and apps that are not trusted or authorized by your organization.

Innocent-seeming apps such as music players, barcode scanners, flashlights, games, voice recorders, timers, and “cleaners” (that say they will clean junk off your computer or phone) are sometimes bundled with malware or adware. Stick to default software and applications on your computer, use software and applications provided by your organization, and only use additional software or applications if they are 100% trusted (like Google, Amazon or other major brands).

*Joe Howland is the chief information security officer at VC3, the Municipal Association's technology partner.*



## ASSOCIATION HIGHLIGHT

# Municipal Court Administration Association of SC

Many municipal job positions have specific training and networking needs, and the Municipal Association of South Carolina's affiliate associations offer opportunities to meet those needs.

The Municipal Court Administration Association of SC promotes the professional and sound administration of courts for cities and towns. It disseminates up-to-date information about the field and encourages court officials to make the best possible use of new technologies.

The MCAA listserv, a benefit of membership, offers access to court administrators, clerks of court, municipal judges, and other city or town employees involved in court administration for troubleshooting and best practices.

The MCAA Spring Meeting will take place Friday, April 8 in Columbia.

Learn more at [www.masc.sc](http://www.masc.sc) (keyword: MCAA).



## True or False?

**State law empowers city and town councils to adopt ordinances, which are local laws of a general and permanent nature, and to set fines and penalties for the enforcement of those ordinances.**

**Answer: True**

South Carolina municipalities are subordinate units of state government, and they derive their power from the state constitution and laws adopted by the General Assembly. They can adopt municipal ordinances, resolutions or regulations, but these must be consistent with the federal and state constitutions and laws.

SC Code Section 5-7-270 provides the process for passing ordinances. Councils must introduce every proposed ordinance in writing in the form required for final adoption. No ordinance has the force of law until it has had at least two readings on two separate days with at least six days between each reading.

SC Code Section 5-7-290 gives the required process for codifying ordinances once they are enacted. They must be indexed, and must be either typewritten or printed. They must

be maintained in a current form while reflecting all amendments or repeals passed by the council. Finally, the law requires that municipalities make all codified ordinances "available for public inspection at reasonable times."

State law requires that councils can take certain actions only by using an ordinance. For a complete list of these actions, refer to the *Handbook for Municipal Elected Officials in SC*.

The Municipal Elected Officials Institute of Government offers both in-person and online courses. Elected officials who complete all of the required coursework can then graduate from the institute. Register for the May 17 courses "Municipal Governance and Policy" and "Freedom of Information Act in South Carolina" at [www.masc.sc](http://www.masc.sc) (keyword: MEO).



# Liability Cap Increase Under Consideration

At one time, South Carolina's cities and towns could not be sued after a person's injury. Municipal employees also could not be sued for any action they took while performing an official duty. These protections, known as sovereign immunity, ended in 1986, when the General Assembly replaced it with qualified, limited liability by passing the SC Tort Claims Act.

The law allows South Carolina residents to bring suit against their state, county or municipality, but only in certain circumstances, and only for limited amounts of money. Currently, a person suing over a single occurrence of negligence cannot recover damages of more than \$300,000. The total damages recovered from the government for any single occurrence can be no more than

\$600,000. These liability caps remain in place no matter how many individual claimants are involved.

The state set these caps at their present level in 1997, but lawmakers have proposed increasing the caps. A bill now under consideration, S82, would increase the limit of a loss to one person from a single occurrence to \$500,000. It would increase the total limit for a loss arising out of a single occurrence to \$1 million. The Senate passed S82 in March 2021, and the bill moved to the House of Representatives. Insurance professionals continue to review the bill to make recommendations for improving it in the House.

For the 132 municipalities in South Carolina that are SC Municipal Insurance and Risk Financing Fund members, the bill is projected to serve as a factor that

would increase premiums if it passes. In recent years, premiums have been affected by an increase in catastrophic events since 2015, as well as increasingly expensive reinsurance markets. These trends are expected to continue. Reinsurance, the process by which insurers share risks to help reduce the costs of major claim expenses, is an important and necessary way to protect cities and towns from catastrophic loss. SCMIRF's reinsurance expense has increased more than 100% since 2017 and represents a substantial portion of SCMIRF's total expenses.

*For the latest action on S82, visit the Association's Legislative Tracking System. Keep up with legislative action that impacts cities and towns by subscribing to the From the Dome to Your Home weekly report.*



The MEO Institute had 17 graduates in February. Not all are pictured.



The Advanced MEO Institute counted 34 graduates.

## Elected Officials Graduate From MEO, Advanced Institutes

**D**uring Hometown Legislative Action Day in on February 1, the Municipal Elected Officials Institute of Government and Advanced Institute together graduated 51 municipal elected officials, including 17 graduates of the MEO Institute and 34 graduates of the Advanced MEO Institute. Find press releases for all graduates from both programs at [www.masc.sc](http://www.masc.sc) (keyword: newsroom).

For more than three decades, the MEO Institute has worked to give elected officials the knowledge they need to help their municipalities operate responsibly, efficiently and effectively.

To graduate from the MEO Institute, officials must complete two daylong sessions and five other courses that they can take online or in person at any of several councils of governments area locations. The next in-person session, taking place on Tuesday, March 22, is “Basic Budgeting and Municipal Finance.” The registration deadline is Monday, March 14.

Graduation from the Advanced MEO Institute requires completion of four of the six available courses. The institute offers in-person sessions every year in February and October. This fall’s in-person session is an all-day event on October 19 at the Columbia Marriott. The sessions

are “Advanced Budgeting and Finance” or “Advanced Leadership and Governance.” Registration opens July 1.

The MEO Honor Roll recognizes the city and town councils that can count all members of their sitting council as graduates of the Municipal Association’s MEO Institute. The municipalities receiving this recognition after the winter 2022 session are Arcadia Lakes, Beaufort, Folly Beach, Inman, Jonesville, Moncks Corner, Mullins, Newberry, Prosperity, Santee and Walterboro.

*Learn more about the MEO Institute and register for courses at [www.masc.sc](http://www.masc.sc) (keyword: MEO Institute).*

## Business Licensing Essentials: How to Calculate Business License and Declining Rates

**E**very month in 2022, the Municipal Association’s Local Revenue Services is hosting “Business Licensing Essentials,” a series of virtual training sessions on the specifics of the business licensing process. The session on the process for calculating business licenses will be Wednesday, March 9, 10 to 11:30 a.m. Learn more at [www.masc.sc](http://www.masc.sc) (keyword: training calendar).

Under Act 176, which standardized business licensing practices across the state, local governments with business license



taxes must calculate those taxes for each type of business using the current version of the North American Industry Classification System, assigning each business a NAICS

code and using the 2021 class schedule to place businesses in a rate class. Most commonly, businesses based on their rate class are charged a base rate, as well as a rate for each additional \$1,000 of revenue beyond the amount covered by the base rate. Many municipalities choose to apply a declining rate per \$1,000, where the percentage charged declines as the business’s gross income exceeds various thresholds.

*Learn more about the standardization process at [www.masc.sc](http://www.masc.sc) (keyword: standardization).*



# ‘A Requisite for Good Government:’

## Reporters Discuss Covering Local Government

In the introduction to the *Public Official’s Guide to Compliance with the S.C. Freedom of Information Act*, Gov. Henry McMaster ends his letter with simple instructions to government officials: “When in doubt — disclose.”

The booklet, published by the SC Press Association as a guide for public officials and the public, is a plain-language guide to how the state’s Freedom of Information Act should guide public meetings and public records in South Carolina. McMaster’s sentiment is echoed by SC Attorney General Alan Wilson’s recommendations, which include: “When fulfilling a request, remember a vigilant press corps is a requisite for good government. As public officials, we have an added obligation to aid members of the media with their quest to properly inform the public.”

It may sound simple, but tension between government officials and members of the media is common. In

most cases, it is a normal, expected part of the relationship.

But reporters want local officials to know something about their profession:

“We’re not the enemy. We’re not there to destroy the way the public views you or to ruin your political career,” said Caitlin Herrington, a *Greenville News* reporter who covers three Upstate municipalities. “The flip side of that same point is we’re not your partner. We work for the public. Our readership is who we are looking out for.”

Reporters covering government beats say they understand the inherent friction in the relationship. They appreciate communications officers who work to get necessary information to the public, and value efforts to share information including budgets, agendas, searchable reports and high-resolution images on city websites. But reporters can also perceive that some government officials use FOIA

to deflect questions and delay answers to a journalist’s requests.

“I’m always surprised by how governments default to secrecy,” said David Slade, a reporter at *The [Charleston] Post and Courier*, who has been a reporter for 30 years. “Their tendency is to cover themselves by demanding FOIA [requests] for even the most innocuous, the most obviously public information.”

According to the current version of FOIA, government officials have 10 business days to respond to a written request for information. But reporters point out that not every request should require a formal FOIA request; some should simply require a phone call.

“I think it’s part of a trend. Where I might have made a phone call even just several years ago, now it’s, ‘You need to file a FOIA [request].’ And when we do, it’s routine for governments to run out the clock on them. Whatever the state



legislature allows for how much time they can take, they'll take every minute of it," Slade said. "Even the insignificant stuff. If I need a copy of that contract you approved last night, I shouldn't need a FOIA [request] for that."

Slade said he believes some public information officers "want to be able to say 'We had to give it to them.' Or, at the end of the year, say 'Look how many FOIA [requests] I responded to this year.' It's a fundamental difference in my opinion. If you and I agree on what's public information, we shouldn't need to file a FOIA [request]."

Herrington said it is important to remember that FOIA requests are available to anyone, not just reporters.

"FOIA is not a tool for journalists. We use it and we are more familiar with it, but it is a tool for the people. If we're having a hard time getting information and we are well versed in these requests, what are they doing when public sends a FOIA request? We're a large company, we're going to have the funds to put up the \$100 deposit check while they dig up information. Not everybody is going to have that resource available to them," she said.

"There are a lot of times in the *Greenville News* newsroom, not just me specifically, but we get a response, 'Oh, we don't have that.' Or 'We don't keep up with it.' And that's just as concerning. You're not tracking X, Y or Z which is of large public importance? I imagine at some point hearing that 'we don't keep up with that' is very concerning to the public."

Slade and Herrington both say always requiring formal requests is not a universal issue. Slade said some cities he has covered in his career, such as Charleston, are more transparent and rarely require him to file a FOIA request for basic information.

Herrington, who has been a reporter for six years, said some of the cities she covers have dedicated public information offices. She said those offices can improve transparency and the public information

officers can quickly provide information and help steer reporters in the right direction. But she said government officials should not be surprised when reporters call other sources to find out more information.

"It tends to be helpful to have one person to go to information, but far be it for journalists to stop at one person. A good journalist will have relationships with council, the administrator, the city clerk ... We're going to call other people to get information," she said.

Slade said he has watched as the attempt to control information has filtered down from the federal level to state government and now to local governments.

"I remember when, if I was trying to find a subject expert, I would just call them. Now, in many cases, the only person allowed to speak with you is the PIO. Or you have to talk to the PIO first and they'll connect you. Or you're going to have to submit written questions, and the answers will be non-responsive or vetted by a committee and attributed to the public information officer. It's useless and frustrating," Slade said. "It does not serve the government entity or the public well when people who know what they're talking about can't talk to you."

Herrington said she understand that some officials have concerns about interacting with journalists.

"A lot of times government officials want to control the narrative. They think we are going in to a story with a specific angle or purpose. Sometimes that's true. But good journalists are curious people. And sometimes the story changes while we're writing it based on new information that comes in. We're not asking you a specific question just to trap you," she said. "As much

as you want to control the narrative, sometimes you can't. Sometimes there is documentation that is going to be contrary to what you're telling me. And it's my duty is to report that, and to be fair and honest and balanced. And I'm going to do it, whether it helps you or hurts you."

Local officials should work to ensure that members of the press can get the information they're seeking as quickly and easily as possible. In some cases, FOIA requires immediate access to information like the previous six months' of meeting minutes or police reports. In other cases, the local government can provide meaningful amounts of information without a formal FOIA request.

For example, municipalities prepare a council meeting packet to provide to members of the press who cover their cities. The packet should include all of the information found in a council member's packet, save for executive session materials. If reporters request a copy of an ordinance, provide them with the ordinance instead of requiring a FOIA request be filed.

Always returning a reporter's phone call or email as soon as possible can help as well. Reporters are typically working under very tight deadlines and they need the city's input. Failure to respond to the reporter could lead to a one-sided story that could have been prevented with a call returned to the reporter.



# 'As Transparent as Possible:' Clerks Discuss Agenda Management

A major part of the job for any municipal clerk is keeping the city council and residents up to date on what is going on in the city.

Many clerks aim not just to meet the requirements of the state's Freedom of Information Act — which details what must be made available to the public and when — but help their fellow residents stay informed about what their elected representatives are doing. For most clerks, the process of preparing meeting agenda packets and information for the public is a well-oiled machine. Many municipal websites allow the public to access everything online, including minutes of previous meetings and even recordings of full meetings that are frequently lives-treamed on the internet.

"Council wants to be as transparent as possible and that's what the public wants," said Renee Caviness, Irmo's town treasurer and clerk. "It makes it easier for everybody if they can go and get it at their fingertips."

In her five years as Irmo's town clerk, Caviness said she has tried to improve the availability of information for the public and has taken on digitizing projects as time has allowed.

"We were a little archaic, but I am slowly getting us there," she said.

Her method is to compile and email a complete packet to council members that includes the same materials as the public packet, except support materials protected



Above: The Town of Irmo previews public meetings, including agendas, on social media.

Right: Irmo posts its meeting agendas on a bulletin board by the front door of its town hall.

Photos: Town of Irmo.

by FOIA exclusions. The public packet goes on the town's website, which fulfills a FOIA requirement that any municipality with a website must post agendas on the site at least 24 hours in advance, the same as with the physical posting of the agenda.

The packet also goes on a platform called Municode, which helps cities and towns organize their ordinance books, meeting notices, agendas, minutes and other public material. Anyone can

search for a particular issue on the town's Municode site and find details on any ordinance.

The town administrator also helps by adding a brief "plain language" description of agenda items. Instead of simply noting the ordinance or zoning regulation number, for example, the agenda includes a brief description of what the ordinance does and what change is being considered.

The town also is adding agendas, minutes and meeting recordings for the planning and zoning commissions. The town also plans to begin including information on meetings for its annual festival, the Okra Strut, which receives funding and other support from the town. The town has posted the festival committee's agendas, but now will begin more extensive postings to include minutes and video of meetings.

"We have definitely been transparent, but we are wanting to be more transparent with the meetings," Caviness said.

Transparency is also the goal for Travelers Rest, said Lori Sondov, city clerk and treasurer.

"We always want the public to know what's going on and for them to be informed," she said. "We put everything out there for them to see and they can access it via the website."

For Sondov, that means preparing agenda packets for standing committee meetings each month, followed by agenda packets for the full council meetings. In the case of Travelers Rest, that also means publishing an agenda two days ahead of the full council meeting, rather than the 24 hours required by law.

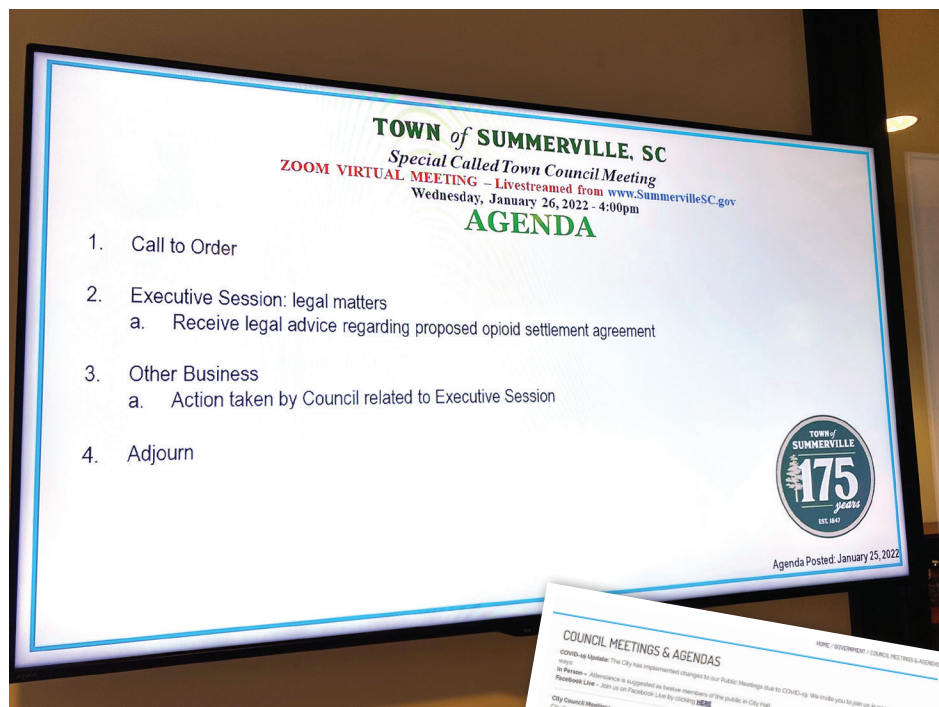
"This was established a number of years ago in our code," Sondov said. "We have to get ourselves together a little faster."

Typically, Sondov and the town administrator will put the draft agenda together based on the standing committee meetings, then send it to department heads and councilmembers for review. A final agenda goes back to the council members and department heads, and also goes onto the city's website. The agenda is sent to local media — another FOIA requirement.

The Travelers Rest standing committee meetings are where a lot of questions get asked of department heads — like the police chief.

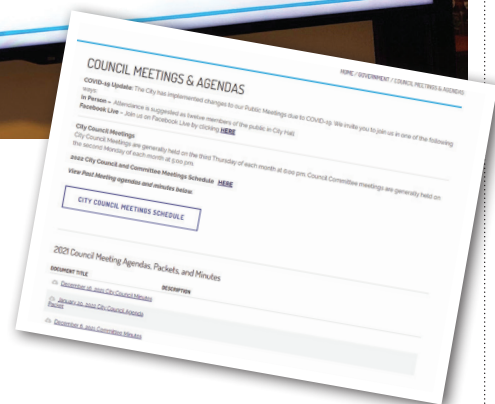
"A typical question is how is the crime rate at the local Walmart doing," she said. "Those meetings provide a lot of information to the public."

All that information gets rolled into the agenda packets for the full council.



Above: Summerville uses a display screen to post upcoming agendas. Photo: Town of Summerville.

Left: The council meetings page of the Travelers Rest website links to agenda packets, the annual notice of meeting dates and Facebook Live video streaming of meetings. Photo: City of Travelers Rest.



The time between standing committee meetings and council meetings is a little more compressed in Summerville.

"I am actually working with two agendas and sets of minutes at the same time," said Beth Messervy, Summerville town clerk. "I give everybody a deadline to get everything on the agenda then I review it with the mayor, the town attorney and our town administrator."

That group meeting to discuss the agenda is one of the tweaks Messervy has made to the process during her four years as clerk. When she first started, she only met with the mayor before making a draft agenda, but found he had questions she couldn't answer.

Messervy publishes the agenda packets for that Monday meeting on Friday afternoon — well ahead of the 24-hour deadline. She also sends council members an agenda draft to give them

time to look it over before she first makes it public.

"We get pretty specific with the wording on our agendas because people ask questions about it and post on Facebook and speculate about what the topic is going to be," she said.

Messervy said her agenda packets include the minutes from previous meetings as well as any documentation that needs to go with zoning and annexation requests. If the council is voting on a contract, the final draft will likely be in the packet, as well as any ordinances that are being amended.

"We just kind of throw everything in there, so sometimes, it can be like an 80-page document," she said. "We are trying to be as transparent as possible and trying to give the public as much information as we can ahead of the meetings so they are well informed if they have a question."



Conway's city council meetings use a countdown clock to help those speaking during the public comment period know how much time they have remaining.

# Keep Public Comment Periods Productive

Public comment sessions during city council meetings can be a useful way for residents to engage with their local government and elected leaders. But public comment can also easily become a source of conflict.

Those who participate in public comment sessions can run on too long, behave abusively or disrupt the business meetings of the council. Sometimes, councilmembers might respond angrily, or handle public comments in an inconsistent way, further eroding the civility of local government work.

Those who establish public comment sessions need to plan and conduct them carefully. Established rules of procedure should limit the time allowed, the conduct or the number of speakers. Some municipalities require speakers to sign up by a deadline set before the meeting.

Here are some things to remember about public comment periods:

**12** uptown: march 2022

## There is no requirement to have public comment sessions.

Public comment — a time set aside to hear from the public on any number of issues — is not the same thing as the public hearings required by state law. SC Code Section 6-1-80, for example, requires a public hearing before the council adopts an annual budget, while SC Code Section 6-1-330 requires a public hearing before the adoption of a new service or user fee. But public comment periods beyond those required in state law are not necessary.

A council meeting is the business meeting of the council. Public comment periods should not interfere with that function. State law gives councils the authority to set their own rules of procedure, as long as the rules do not conflict with state law.

## Manage the public comment sessions carefully, lay out the expectations for a commenter's conduct and how the session will proceed at the beginning.

Rules about public comments can determine

- when in the meeting the public may speak — often at the beginning or end of the meeting;
- whether speakers may comment upon only matters on the agenda or any topic;
- whether speakers must sign up in advance of the meeting;
- how long a person may speak; and
- whether there is any discretion for council to extend the time allowed under specific circumstances. Council could extend speaking time when the person is speaking on behalf of a larger group.

The council can also communicate to participants that the rules exist to make sure that councilmembers have adequate time to discuss critical issues, and to make sure that meeting order is preserved. They can express this message with a written agenda, and in a statement made at the beginning of the comment period. It can be useful to note that the comment period is the only portion of the meeting when the council will receive comments from attendees during the meeting.

Those councils that set time limits will often display a timer so that the individual

speakers know when they must conclude their remarks. On occasions when speakers continue after they have exceeded their time, the chair can ask them to end their statement.

### Be prepared for the possibility of public comments at a meeting sending it into disorder.

Sometimes, rules and preparations are not enough to maintain order in a charged situation — for example, a large number of people attending a meeting to express anger over a specific issue. Some

municipalities have adopted rules or ordinances authorizing the presiding officer to stop public comments that either the chair or a majority of council determine to be uncivil, contentious or disruptive.

In a difficult situation, managing the meeting can mean giving warnings that if speakers do not follow the rules, the council will end public comment, and then follow through if necessary.

*Learn more about conducting meetings in the How to Conduct Effective Meetings handbook at [www.masc.sc](http://www.masc.sc) (keyword: *conduct effective meetings*).*

## Statements of Economic Interest Due March 30

The State Ethics Commission's required Statement of Economic Interests forms aim for transparency on any potential personal benefit that a public position could create.

Officials must use the forms to report their income as well as any economic interest in real, personal or business property. "Economic interests," in this context, are any transaction, such as a sale, lease

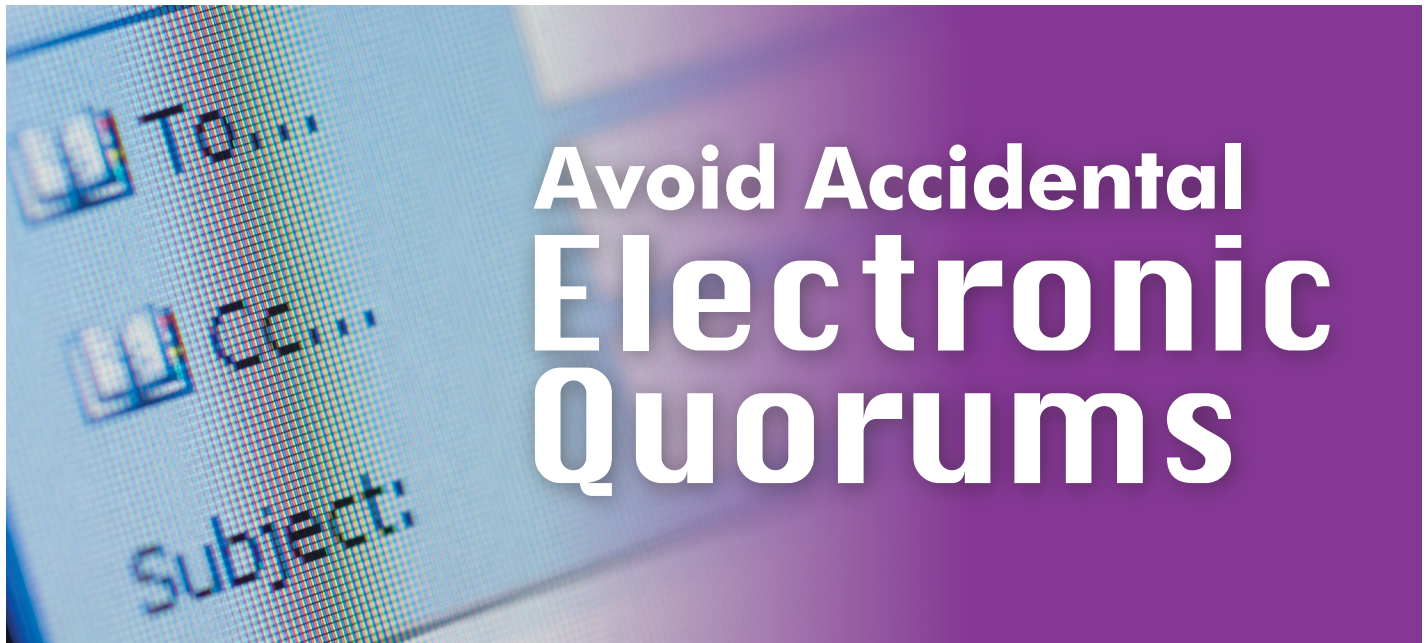
or contract in which the official gains an economic benefit of at least \$50.

What is an economic interest? For the purposes of the SEI, the Ethics Reform Act, found at SC Code Section 8-13-100(11)(a) defines an economic interest as "an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public

official, public member, or public employee may gain an economic benefit" in an amount of \$50 or more.

SEI forms are due by electronic filing by noon on March 30. File the form and other guidance information online at [www.ethics.sc.gov](http://www.ethics.sc.gov). Once the forms become overdue, fines for not filing them can start increasing daily until they hit maximum amounts.

Who must complete an SEI form?	What family members should be included when reporting income?	What economic interests should be reported?	What business relationships must be reported?
<ul style="list-style-type: none"> <li>Public officials</li> <li>Candidates for office</li> <li>Chief administrative officials, including for water and sewer districts</li> <li>Chief finance and chief purchasing officer</li> </ul>	<ul style="list-style-type: none"> <li>Spouses</li> <li>Children who reside in the household</li> <li>Anyone else claimed as a dependent</li> </ul> <p>Reportable income includes anything of value reported on an IRS form.</p>	<ul style="list-style-type: none"> <li>Real estate interests, including those of immediate family members, if it could create a conflict of interest</li> <li>Public improvements (streets, lighting, water systems) valued at \$200 for personal property or adjoining property</li> <li>Real or personal property sold, leased or rented to a public entity</li> </ul>	<ul style="list-style-type: none"> <li>Every business or other entity in which the official or immediate family member has a 5% or greater interest in the value, so long as the value of the interest exceeds \$100,000</li> <li>Any compensation received from a business that contracts with the municipality</li> </ul>



# Avoid Accidental Electronic Quorums

**D**oes a group email or text message count as a “meeting” under the SC Freedom of Information Act? The South Carolina Attorney General has concluded that it might. Since such a “meeting” would not be open to the public and properly advertised, it could violate the public meetings requirement of FOIA.

A recent opinion of the attorney general, from February 18, 2021, stated that a “court may well hold an email chain in which at least a quorum of a public body’s membership discusses or takes action upon a matter over which the public body has [jurisdiction] constitutes a ‘meeting’ [under FOIA]. However, as the state appellate courts have not issued an opinion addressing whether emails can constitute a meeting, this conclusion is not free from doubt.”

The issue is that electronic communication, such as email, could allow a public body to have a private group discussion about government business. For example, the city manager could send an email to the entire council. If one or more council members then use the “reply all” option to discuss the message, a court could find that the behavior was functionally identical to an in-person meeting.

## Sequential meetings

The primary distinction is that an email exchange is not concurrent in the

same way that an in-person meeting would be — happening all at one time. A conversation over email might last several days, or even weeks. The attorney general has noted that other states have developed the concept of a “sequential meeting” to address this distinction. A sequential meeting is a meeting that involves a quorum of the body, gathered over time. Under this concept, it is not essential that each member attend the meeting simultaneously, if the method of communication allows a sustained conversation.

Ultimately, whether a group email or text exchange among a quorum will be considered a meeting will depend on the facts of each case.

As described by the attorney general, “[w]hen members of a public body use email to actively engage in discussion of a matter within the body’s jurisdiction, a court may well find an intention to come together and thereby satisfy the element of convening. In contrast, a court would likely hold passive receipt of email by itself is insufficient to establish an intent to deliberately assemble.”

## Precautions to take

Group emails and texts are efficient tools, but South Carolina municipalities should be careful to avoid turning a routine email exchange into a meeting.

Here are some pointers:

- When possible, avoid using the “reply all” feature in a message involving a quorum of the body, or forwarding responses among members of the body.
- Limit emails and texts to informational exchanges. Discussions of policy and proposed courses of action should be confined to properly convened and noticed meetings.
- Retain copies of emails and texts relating to official governmental business. Even in cases that do not rise to the level of a meeting, the related emails and texts are nonetheless public records subject to production under FOIA and retention under the Public Records Act.

Group emails and texts may allow public bodies to conduct their business more efficiently, but may also create unexpected liabilities. Public bodies should use the same care with electronic documents as they would with physical documents and in-person meetings.

*Learn more about FOIA in The Public Official’s Guide to Compliance with the Freedom of Information Act at [www.masc.sc](http://www.masc.sc) (keyword: publications).*





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# Calendar

*Scheduled in-person meetings are subject to change based on the Municipal Association's COVID-19 restrictions in place at the time of the meeting. Information about events and how members can access the virtual events will be updated on the Association's website.*

## MARCH

**2 SC Business Licensing Officials Association Spring Training and Advanced Academy. Cooperative Conference Center, Columbia.** Topics include the duties of licensing officials, business license administration and problem areas, alcoholic beverage licensing and changes from Act 176.

**3 SC Association of Stormwater Managers First Quarter Meeting.** Cooperative Conference Center, Columbia. Topics include audits, industrial discharge permits and construction site permitting.

**9 Business License Essentials – How to Calculate Business License and Declining Rates.** Virtual. See Page 7.

**14 – 16 SC Utility Billing Association Annual Meeting. SpringHill Suites Greenville Downtown.** Topics include customer service, business etiquette and office professional self-care.

**22 Municipal Elected Officials Institute of Government: Basic Budgeting and Municipal Finance.** Appalachian COG: Greenville, Central Midlands COG: Columbia, Pee Dee Regional COG: Florence, Berkeley-Charleston-Dorchester COG: North Charleston, Waccamaw COG: Georgetown. Topics include the elected official's responsibility, budget cycles, financial controls and accountability, and audit requirements.

**24 Municipal Technology Association of SC Spring Meeting.** Cooperative Conference Center, Columbia. Topics include GIS flood modeling, continuity of government management and desktop client management.

**31 Retail Recruitment Training: Sessions 3 and 4.** Municipal Association of SC, Columbia.

**31 SC Municipal Finance Officers, Clerks and Treasurers Association Spring Academy.** Seawell's, Columbia. Topics include SC Ethics Commission compliance, government accounting, board member training and keeping order in meetings.

## APRIL

**8 Municipal Court Administration Association of SC Spring Meeting.** Cooperative Conference Center, Columbia.

**13 Business License Essentials – Gross Receipts, Deductions, Verification, Documentation.** Virtual.

**26 Public Works/Utilities Risk Management training.** West Columbia City Hall.

**28 SC Municipal Human Resources Association Spring Meeting.** Cooperative Conference Center, Columbia.