

Recurring Questions

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Session Agenda

- Review remote meeting laws
- Breakout rooms for quorum and voting questions
- Answer FAQ's
- Jeopardy
- Clerks to share experiences



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FAQ Topics

- State of emergency declarations
- Notice (what to include/how to count/what is required)
- Public Hearings
- Open Meetings
- Meeting Procedure
 - Quorums
 - Closed sessions
 - Agendas
 - Consent agenda
 - Recessing meetings
 - Voting
 - Organizational meetings
 - Minutes



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FAQ Topics

- Social media practices
- Annexation
- Ordinance or resolution
- Bidding
- Property disposal
- Charter changes
- Conflicts of interest
- Public records retention
- ADA accommodations
- Cemetery procedures



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G.S. 166A-19.24: Remote Meetings

- “Remote meeting”: An official meeting with between one and all of the members of the public body participating by simultaneous communication.
- Public body: Any board, commission, committee, Board or other body that has at least two members and is authorized to exercise one of these functions: legislative, policy-making, quasi-judicial, administrative or advisory.



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G.S. 166A-19.24: Remote Meetings

- Notice must specify the means by which the public can access the meeting “as the meeting occurs”
 - Provide Zoom link, etc.
- Minutes must reflect:
 - the use of simultaneous communication
 - who participated remotely
 - when members joined or left the meeting
- Written comment allowed 24-hours after public hearings
- All chats, instant messages, texts, or other written communications between the members of the Board regarding public business during are public records



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SB 531

- Proposes to add section to G.S. 166A-19.24
- (b1) Change In-Person Meeting to Remote Meeting. – A public body that has issued a notice for an in-person meeting may amend the notice to make the meeting a remote meeting no later than six hours prior to the noticed time for the in-person meeting.
- Amends the written comment period for public hearings
 - Written comments to be submitted between publication of required notice and 24 hours ~~after~~ prior to the noticed time for the public hearing.



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Remote Meetings Absent State-of-Emergency

- Authority to hold remote meetings absent state-of-emergency is an open question in the law
- The Board may adopt its own rules of procedure. G.S.153A-41; 160A-71
- Legal risk mitigated when a remote participant is not necessary to establish a quorum and does not cast a deciding vote
- Create a local policy for remote meetings
 - No individual right to participate remotely



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Quorum

- Quorum = number of members who must be present for body to conduct business.
- The default rule in RONR is that the quorum is a majority of committee or board members.
- The quorum requirements for committees and appointed boards may vary.
 - Variance requests four-fifths of total membership



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Q1 Quorum

- Does a quorum exist?



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Q2 Quorum

Does the quorum calculation change if the mayor had the right to vote on all questions before the Board?



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Q3 Quorum

Is a quorum present if the member leaves the meeting to go to the bathroom without first being excused?



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Quorum Math

	Cities	Counties
Vacancies	DO NOT count	DO count
Mayor/Chairman	Counts	Counts
Member steps out unexcused	Still counts	Still counts
Member steps out excused	No longer counts	No longer counts



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Q4 Quorum

In a remote meeting, a board member is counted present for quorum purposes even if that member loses simultaneous communication provided the member was present at the outset of the meeting.
True/False



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Voting

- Usually only a simple majority is required
- Record votes in the minutes
- Voting by ballot
 - Signed
 - Available for immediate inspection
 - Kept until minutes are approved



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Q1 Voting

During a regular meeting, a board member decides not to take a position on the proposed noise ordinance and declines to vote. Should this member's vote be recorded as an affirmative vote? Explain.

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Q2 Voting

Does the answer change to the above question (#1) change if the vote on the ordinance occurred during a remote meeting and the member remained silent?

*Does the default yes rule apply in remote meetings?

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Q3 Voting

Board member Peters has objected to board member King's involvement in deciding whether to adopt a noise ordinance because, according to Peters, King is biased because he uses his property as a short-term rental and does not want strict noise laws. Must King avoid discussing and voting on the noise ordinance due to bias?



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5. Conflicts & Voting

- A member may be excused from voting only if a matter involves the member's financial interest or official conduct or a member is prohibited from voting under these statutes:
 - 14-234: Direct benefit in contracting
 - 160D-109: Legislative zoning decisions, including zoning map amendments
 - 106D-109: Quasi-judicial decisions
 - Excused when a member has a fixed opinion prior to hearing the matter that is not susceptible to change



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Q4 Voting

Assume the noise ordinance was first introduced to Board at the regular meeting. Has the ordinance been approved if the vote is 3 to 1 in favor of the ordinance? Why or why not?



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Additional Q & A's

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The Organizational Meeting

Assume the Board hired a new and largely inexperienced manager shortly before the general 2020 election in November. A few weeks after the election, the manager asks you when must the organizational meeting be held? What is your response?

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The Organizational Meeting: Counties

<p>Even Years</p> <ul style="list-style-type: none"> • 10 a.m. on the first Monday in December • Convened and concluded before first regular meeting 	<p>Odd Years</p> <ul style="list-style-type: none"> • Held during the first regular meeting in December
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The Organizational Meeting

- Who may preside at the organizational meeting?
- The outgoing mayor or the outgoing chair may preside
- If not, it could be the clerk, manager, or another appointed person



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The Organizational Meeting

- May board members vote by secret ballot to elect a new chair at the organizational meeting?



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Transition of Power

After the election, but before new members are sworn in, the Board meets to discuss a very contentious personnel matter involving the manager that it hopes to resolve before the new members take office. In order to promote an orderly transition, the Board invites the members-elect to attend the closed session. Is this legal?



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Transition of Power

Four of seven members lost their seats in the recent election, and, before the new members are sworn in, the current Board wants to vote on whether to terminate the police chief.

Is it legal for lame duck members to make significant decisions, such as hiring or firing the key employees, or approving a major development, contract, or ordinance during their remaining days in office?



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Duty to Attend Meetings

Board member Pat Sprat has missed 10 of the last 12 meetings. The board is concerned that Pat is not fulfilling the duties of the office and they are frustrated because sometimes they lack a quorum at meetings.

What can a city or county governing board do when one of the members won't or can't come to meetings?



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