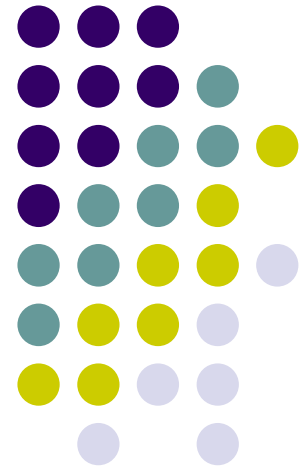


Board Meeting Procedures

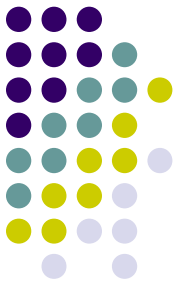
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It's a “Board” meeting... not a “bored” meeting...



In this presentation, we will:

- Provide an overview of the structure of a board meeting
- Discuss some best practices for board meetings
- Address how county attorneys interact with the Board of Supervisors during meetings
- ***Help you avoid ending up on YouTube!***
- ***Caveat: Always ask your County Attorney!***

If you have questions at any time, please feel free to raise your hand.

“Meeting” Basics

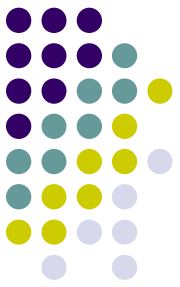


What is a “meeting”?

FOIA Definition: "Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) as many as **three members** or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, **of any public body.**

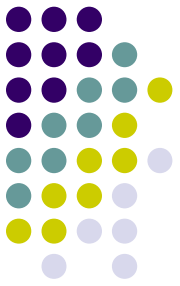
- Va. Code § 2.2-3701
- **Helpful Hint: Read and familiarize yourself with the Virginia Freedom of Information Act**
 - (Va. Code § 2.2-3700, et seq.)

“Meeting” Basics, continued...



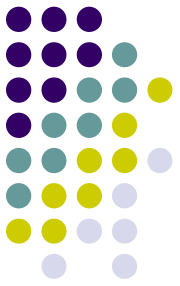
- Meetings can be “**regular**”, “**special**”, or “**adjourned**”
 - Regular meeting – scheduled, typically at the annual/organization meeting in January
 - Special meeting – unscheduled but properly noticed in compliance with FOIA
 - Adjourned meeting – deferred; recessed or postponed meeting; often utilized for work sessions between regular meetings
- Public bodies can only **act/transact public business – vote on something** – at a public meeting.
 - Va. Code § 15.2-1415
- A **committee** of a public body also qualifies as a public body and must also comply with FOIA (notice, agenda, meeting minutes, etc.).

Before a “public body” even meets... FOIA compliance matters!



- **Location** has to be **open** to the public (unless provision is made for a closed meeting under FOIA)
- **Public notice** of the date, time, and location
 - Post on website, prominent public location where notices are regularly posted, at the clerk/chief administrative officer's office
- **Notice** must be posted at least **3 working days** prior to meeting
 - For special, emergency, or continued meetings, notice must be **reasonable under the circumstances**, at the same time as given to public body members
- **Meeting Agenda:** At least one copy of the proposed **agenda** and all agenda packets and, unless exempt, all materials ... for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body.
 - Va. Code § 2.2-3707

Can you meet via teleconference or video-phone?



Yes, as long as your public body complies with FOIA requirements:

- Quorum of public body is physically assembled at one primary or central location
- Proper notice has been provided
- Remote locations from which members are participating are open to the public
 - Va. Code § 2.2-3708
- **If remote participation is due to personal matter of a member, must comply with Va. Code § 2.2-3708.1 – *location does not have to be public***
 - Body must have adopted written **policy** to allow this, must **approve** remote participation, consistent application, etc.

Board meeting structure: Elements of a meeting agenda...



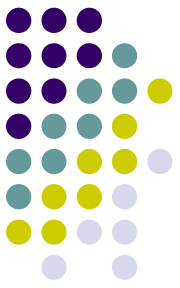
There is no prescribed “Order of Business” or agenda for boards of supervisors in Virginia. It is up to each board to organize its agenda.

However, there are certain elements that are required, and some elements that are typical, or common among Virginia boards of supervisors.

Not all of these elements are required; nor are they required to be in this order.

- **Call to Order**
- Invocation/Prayer
- Pledge of Allegiance
- **Approval/Amendment of Agenda**
- Public Comment
- Board member reports
- **Consent Agenda – meeting minutes, routine expenditures, etc.**
- Public Presentations
- **Public Hearings**
- **Action Items**
- County Administrator’s Report
- Closed Meetings
- **Adjournment**

Meetings ... *fraught with peril!?!?*



Board Chairman and Chief Administrative Officer Prepare the Agenda

Call to Order – *That's the easy part...*

Prayer – *Can public bodies offer prayer?*

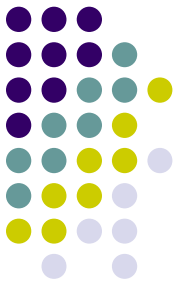
Maybe – it depends. Legislative prayer may be permissible in certain circumstances BUT exercise caution and consult with your legal counsel about how and by whom prayer is offered – very fact specific.

- *Town of Greece v. Galloway*, 134 S. Ct. 1811, 188 L. Ed. 2d 835 (2014)
- See also *Lund v. Rowan Cnty., N.C.*, 863 F.3d 268 (2017) and *Bormuth v. Cty. of Jackson*, 870 F.3d 494 (2017)

Pledge of Allegiance

Yes, but cannot compel anyone to stand

Meeting agenda ... *continued*...



Public Comment

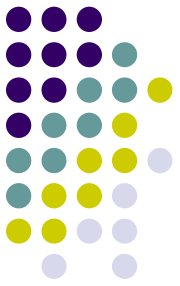
- Not required, except for in context of public hearings.*
- Not intended as time for dialogue between speakers and members of the public body – ***avoid this temptation!***
- Purpose of meetings is for public body to transact public business.
- But, public comment is advisable and expected.
- Some have public comment at the beginning, some at the end, and some have it at both beginning *and* end of meeting.
- Establish rules/policy – written and adopted. Example: 3 minutes per person; 5 minutes if the speaker represents a group; applied consistently.

Consent Agenda

Non-controversial, routine transactions, no discussion necessary, documents in agenda packet.

*Legislation was introduced in the 2018 General Assembly Session that would have required public comment at all meetings of public bodies; it failed, again.

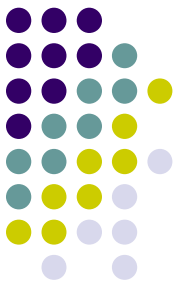
Meeting agenda ... continued...



Public Hearings

- Required for ordinances, rezonings, financial borrowings/bond transactions, annual budget and taxes, etc.
 - Va. Code §§ 15.2-1427, 15.2-1428
- Process can be managed in different ways, for instance:
 - Introduction
 - Staff report - *Note how and when notice was published to address compliance with Va. Code § 15.2-1427*
 - Applicant/representative presentation
 - Public hearing/Public comment
 - Applicant may be permitted to speak again/respond
 - Board member response/discussion
 - Action by Board/Vote
- Ordinances – Final vote must be recorded

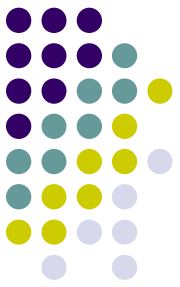
Meeting agenda ... continued...



Closed Meetings – Va. Code §§ 2.2-3711, 2.2-3712

- **FOIA Compliance** – Motions to convene in closed meeting must state reason for the closed meeting and applicable code provision authorizing closed meeting.
 - Public bodies cannot convene in closed meeting just because they want to
 - Your county attorney will assist you but do not expect them to manufacture a rationale for a closed meeting
- **Motion script - *Be explicit and specific!***
- **Certification** – Members must certify FOIA compliance after closed meeting.
- Non-members can attend closed meetings
 - Va. Code § 2.2-3712(F)
- ***Local Officials Guide to the Freedom of Information Act*** by Roger Wiley, Hefty, Wile & Gore, P.C.

County Attorney – *Friend or foe?*



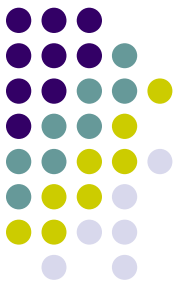
Neither! The County Attorney is your attorney and counselor at law and your parliamentarian.

- *Rely upon them for assistance and take their advice!*

Best practices for interactions for your County Attorney for Board meetings:

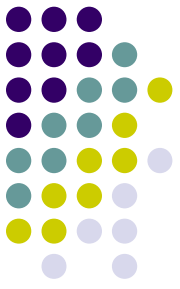
- Discuss agenda and controversial issues beforehand, one-on-one
- Give your attorney a “heads-up” about potential issues, questions, etc.
- Try to avoid “off the cuff” legal questions that require legal and factual analysis
- Try to avoid asking for legal advice in public or open session
- Prepare for Closed Meetings ahead of time

Parliamentary Procedure



- Most local governing bodies adopt rules and procedures or bylaws to govern their meetings and the transaction of public business.
- Many also rely upon, reference, or state that they use **Robert's Rules of Order**, or some version thereof (Eg., *Robert's Rules of Order Simplified*, *Robert's Rules of Order for Small Groups*).
- Another option: ***Board Meeting Procedure in Virginia*** by Stran L. Trout (2011)
 - *Order from VACO*
 - *Covers meetings, agenda, sample dialogs, basic parliamentary information, FOIA compliance, and relevant Virginia Code provisions*

Parliamentary Procedure, cont'd

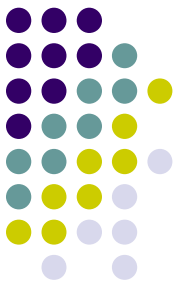


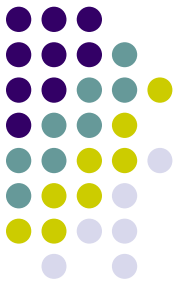
Key Points from *Board Meeting Procedure in Virginia* by Stran L. Trout (2011):

- Keep it formal
- Disagree without being disagreeable
- The Chairman runs the meeting
- Don't let the rules get you down
- Listen

Friendly advice...

- If your board has not adopted rules and procedures or bylaws to govern meetings and the conduct of public business, work with your county attorney to develop these.
 - There a lots of good examples.
- Run the meeting, don't let the meeting run you
- Control the meeting
- Control the microphone, control the meeting
- Have security present (police, deputy sheriff)
- **Don't violate FOIA!**
- **Don't end up on YouTube!**





QUESTIONS?

THANK YOU!

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