
Coates' Canons Blog: Answers to Questions About Committees

By Frayda Bluestein

Article: <https://canons.sog.unc.edu/answers-to-questions-about-committees/>

This entry was posted on February 24, 2010 and is filed under Board Structure & Procedures, Miscellaneous, Open Government, Open Meetings

Local governments often create committees to carry out a wide variety of functions on behalf of their communities. Who has authority to create committees? What is their status under the open meetings law? Under what rules should they operate? What happens if a majority of board members attend a committee meeting – does this violate the open meetings law? Read on for answers to these questions.

Local government committees may take many forms, may have different names, and may be given a variety of responsibilities. Governing boards may create committees from among their own membership, either as standing committees to manage various aspects of governance (such as a personnel, budget, or finance), or as *hoc* committees, to deal with specific, more short term tasks. Committees may be called boards, commissions, task forces, or the ever popular “blue ribbon” variety. These groups may be given a range of tasks, from simply studying issues, to making recommendations, to developing policies or plans, and even in some cases, taking final action on matters, as authorized by the board or as provided by law. Some types of boards or commissions are created by mandate or authority of state statutes. In those cases, particular requirements for membership and procedures may apply. Examples of these include boards of adjustment, planning boards, and historic preservation and recreation commissions. Finally, committees focusing on local issues may be also be established by other organizations, such as the chamber of commerce, or jointly, by multiple public or private entities. For purposes of this discussion, I’ll focus on committees that are created by local governments and that are not specifically governed by state statutory provisions.

Like most things that local governments do, creating committees is generally the responsibility of the governing board, but the board may delegate to an individual or group its authority to create or make appointments to committees. Does this mean that the mayor or an individual board member can’t create a committee? Well, they are free to do it, but it isn’t an official committee of the unit of government unless the board approves it, or has delegated authority to the individual who creates the committee. (This is all true under the general law. Individual charters or local acts may create different rules.) An unofficial committee, not created with authority from the governing board, would not automatically be entitled to receive support or recognition from the unit of government, but is still free to meet and provide information or recommendations to the local government.

A committee created by or under the authority of the governing board is itself a separate “public body” under the open meetings law, and is subject the notice and transparency requirements of that law. There is one exception to this rule: If the committee consists entirely of local government’s professional staff members, the open meetings law does not apply. In all other cases, meetings of official committees must be open, unless the committee has authority to go into closed session under one of the exceptions in the statute. Minutes must be kept, even if the functions of the committee are purely advisory, although in many cases there will be few specific actions to record in the minutes.

There are no specific statutory procedures under which committees must operate. A good resource for small boards is School of Government faculty member Fleming Bell’s publication: *Rules of Procedure for Small Local Government Boards*. The governing body of a unit that creates a governing board is free to create procedural or other requirements under which the committee must operate. The public comment period required under state law doesn’t apply to committees – only to city, county, and school governing boards.

Small committees must be careful to avoid violating the open meetings law. If a local government creates a three-person committee and one member calls another member to discuss the work of the committee, that's an official meeting of a majority of the public body (the committee) and requires notice.

Another tricky situation is when a majority of the governing board ends up attending a committee meeting. For example, say a five-member city council appoints a committee consisting of two board members, a staff member, and several local citizens. A board member who is not on the committee decides to attend one of the committee's meetings. Since a majority of the council is now present, does this make it an official meeting of the council, triggering the notice requirements under the open meetings law? Not necessarily. Other council members are free to attend committee meetings as spectators. If they don't participate in the meeting, there is no reason to consider it a meeting of the council. Council members attending such meetings should be careful to avoid behaving in ways that create a perception that they are either acting as part of the committee, or that in other ways suggest that a majority of the council is, in effect, doing the council's business without proper notice of a council meeting.

Links

- en.wikipedia.org/wiki/Blue-ribbon_panel
- www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_160a/g_s_160a-388.html
- www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_160a/g_s_160a-387.html
- www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_160a/g_s_160a-400.7.html
- www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_160a/g_s_160a-354.html
- www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_143/g_s_143-318.10.html
- www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_143/g_s_143-318.11.html
- www.sog.unc.edu/publications/books/suggested-rules-procedure-small-local-government-boards
- www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_160a/g_s_160a-81.1.html
- www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_153a/g_s_153a-52.1.html
- www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_115c/g_s_115c-51.html