
Coates' Canons Blog: Canceling and Rescheduling Meetings

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Sometimes there just aren't enough board members to have a meeting. Suppose that a clerk for a North Carolina city or county learns in advance of a meeting that several governing board members have conflicts and will not be able to attend. There won't be a quorum without these members. What should be done? What is the process for cancelling and rescheduling meetings? Must the clerk provide notice of the cancellation to the public and the board members? What notice is required of the rescheduled meeting? Must anyone be present at the time and place of the originally scheduled meeting? Who can cancel a meeting? Surprisingly, there is hardly any law (statutes or cases) addressing these issues. This blog post summarizes several relevant statutory provisions and suggests approaches that may be used when meetings can't happen.

Regular meetings (when there is plenty of time)

State law doesn't establish procedures for cancelling meetings. There is, however, a specific procedure for changing the schedule of regular meetings. City and county governing boards are required to adopt schedules of regular meetings. The **open meetings law** requires public bodies to file and post the schedule in locations as set out in the statute, and on the website of the public agency if it maintains one. Boards of county commissioners must comply with additional posting and notice requirements set out in **G.S. 153A-40**.

The only way to reschedule a regular meeting is to adopt a new schedule. The open meetings law requires public agencies to file and post a revised schedule in the same manner as the original, and they must do this at least seven calendar days before the day of the first meeting held under the new schedule. **G.S. 143-318.12(a)**. Counties must also comply with the additional posting and publication requirements mentioned above. Since it takes board action to adopt a new regular meeting schedule, this whole process would have to be approved by the board at a meeting. This is a fairly unwieldy process, and with the requirement of board action it will be useful for rescheduling a regular meeting only if there is sufficient advance notice of the need to reschedule.

Another option is to recess a regular meeting to another time and place. Of course, this would also require a fair amount of advance notice of the need to reschedule. Both cities (**G.S. 160A-71 (b1)**) and counties (**G.S. 153A-40(a)**) have authority to recess a regular meeting. This requires action by the board in a properly convened regular meeting. The open meetings law requires notice of recessed meetings to be posted on the website of the public body, if it maintains one. **G.S. 143-318.12(e)**.

Regular meetings (on short notice)

What if there is no advance notice of the need to cancel a meeting, and no time for adopting a new schedule or recessing the meeting? This can happen due to bad weather or other unanticipated circumstances. If it's possible for at least a quorum to attend, they can convene and then immediately recess the meeting to another time and place. If not, then the meeting simply won't happen at the regularly scheduled time. There may or may not be sufficient time to notify anyone, but there is no specific requirement for such notification. The unit should give individual notice to board members, and as a courtesy, may wish to provide notice to people who regularly attend board meetings media, and others who have filed requests to receive notice of meetings. My colleague Fleming Bell also recommends that when a meeting is scheduled but does not occur, some official from the unit (usually the clerk) should, if possible, be physically present at the time and place of the scheduled meeting to document that there was no quorum and that no meeting occurred. This satisfies the requirement for minutes of scheduled meetings and provides proof that no action was taken.

If the board hasn't filed a new schedule or recessed the meeting, the only other option for rescheduling the meeting is to call a special meeting. A special meeting can be called in cities by the mayor or two members of the board, and in counties by the chair or a majority of the board. This might be appropriate if there are matters the board wants to take up sooner than the time frame for filing a new schedule, or if the board wants to set the new meeting date and time without actually being in a meeting. The unit would have to provide notice of the special meeting under the open meetings law (48 hours notice to those who request it, and post on the website), and must provide notice to individual board members as required by statute (**G.S. 153A-40** for boards of county commissioners; **160A-71** for city council members).

While this is an expedient way to schedule a meeting close to the time of the cancelled regular meeting, it is important to remember that this meeting is not a regular meeting. If the cancelled meeting was the only regular meeting that month, the special meeting would not satisfy the **county requirement** to hold at least one regular meeting per month or the city and county requirement for a public comment period at a regular meeting at least one time per month (**160A-81.1**; **153A-52.1**). In addition, the board has broad authority to consider a wide range of issues at a regular meeting. At a special meeting, the board will be limited to those matters set out in the notice of the meeting.

(I've been asked whether it would be sufficient to provide in the special meeting notice that the purpose of the meeting is to take up the matters set on the regular meeting agenda. That might work if there are specific matters on the regular meeting agenda that are listed on the special meeting notice but I'm not sure it would be adequate notice for items that would typically be identified only at the meeting itself, such as additions to the agenda or new business, unless they are specifically identified and made a part of the special meeting notice. If all the members are present at the special meeting the individual notice requirement under the city and county procedural statutes could be met, but I don't think that satisfies the special meeting notice requirements under the open meetings law.)

Special and Emergency Meetings

The discussion thus far has addressed cancelling a regular meeting. What about cancelling a special or emergency meeting? There is simply nothing in the statutes at all about this. There is no filing requirement for these types of meetings. The unit can notify those who received notice of the meeting, again, as a courtesy, but there is no legal requirement for this notice. The unit is free to schedule a new meeting and must simply comply with the public and individual board member notices for that meeting. Fleming's advice about documenting that no regular meeting was held applies to special and emergency meetings as well.

Appointed Boards

So far I've been talking about meetings of city and county governing boards. The notice requirements under the open meetings law also apply to appointed boards and other public bodies within local government. The rules about individual notice to board members and establishment of regular monthly meetings apply only to governing boards. Rules and procedures for scheduling, cancelling, and rescheduling meetings of appointed boards can be established by local policy.

Who Can Cancel a Meeting?

Finally, there is the question of who can cancel a meeting. Again, there is nothing in the statutes that addresses this, and so far, I have not found a case addressing it. When it's clear that there won't be a quorum, or when an approaching hurricane makes it unsafe to have the meeting, this probably won't be an issue since all the board members are likely to agree that the meeting can't happen. It probably makes sense for the clerk to poll the board to confirm that. But what about the case where the mayor calls a special meeting and then decides to cancel it, but a majority of the board wants to meet? On the one hand, one might assume that a person who calls a meeting has the right to cancel it. On the other hand, if a majority of the board wants to meet, and in the absence of any specific procedure or authority for cancelling meetings, it would seem that the meeting could lawfully occur, assuming a quorum is present. As a practical matter, a majority can call a special meeting for the same date and time, assuming there is sufficient time to provide notice. But the question of who may cancel a meeting, along with a number of other procedural aspects of cancelling and rescheduling meetings, remain somewhat unclear.



Here some related blog posts you might find useful:
Electronic Notice for Special and Emergency Meetings

Calculating Majorities

Rescheduling a Recessed Meeting

Links

- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=143-318.12
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=153A-40
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=160A-71
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=160A-81.1
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=153A-52.1
- canons.sog.unc.edu/?p=496
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