
Coates' Canons Blog: Open Meetings Book: New Edition Now Available

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Article: <https://canons.sog.unc.edu/open-meetings-book-new-edition-now-available/>

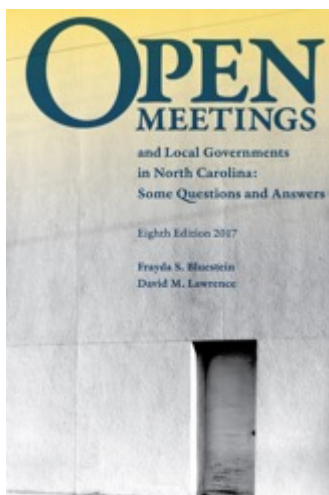
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Can the board of county commissioners meet in closed session to discuss the performance of the elected sheriff or register of deeds? The open meetings law allows a public body to meet in closed session to talk about employees. But are these elected officials considered to be employees? The county commissioners have no authority to hire, fire, or discipline them. So what's the answer? You can find it on page 64 of the new (eighth) edition of ***Open Meetings and Local Governments in North Carolina: Some Questions and Answers***, now available from the School of Government, just in time for Sunshine Week. Read on to learn more about the latest version of this publication, and to see the answer to the question.

First published in 1976, the open meetings book has been an authoritative reference on North Carolina's open meetings law. David M. Lawrence, long time Institute and School of Government faculty member chose a question-and-answer format for the book, which made it incredibly easy to use. (This format has since become a favorite of many of his colleagues and their readers.) David's insights and analysis were informed by his experience serving as advisor and drafter for the legislative study commission responsible for the current law, enacted in 1979. His opinions have informed hundreds of decisions by local attorneys, government employees, public officials, and judges. The co-author of this edition has been the School's primary resource on the open meetings law since David's retirement in 2010.

The new edition incorporates much of Lawrence's original content and basic structure, and includes new content reflecting judicial interpretations and legislative changes. New sections also describe meetings requirements that are not part of the open meetings law, such as notice requirements for city and county governing boards, as well as rules for public comment periods and public hearings. A new appendix lists required public hearings, incorporating the substance of David's blog post here. A quick-reference for closed session meetings is also incorporated as an appendix, along with the text of the open meetings law.

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Here's the closed session question again, along with the answer:

What about elected officials who are full-time employees – could a board of county commissioners discuss the performance of the sheriff or register of deeds in closed session?

Not under the exception in G.S. 143-318.11(a)(6) *as it applies to employees*, but perhaps as it applies to applicants or public officers. The North Carolina Supreme court has held that elected sheriffs and registers of deeds, and their employees, are not county employees for purposes of G.S. 153A-99 (limiting political activities and coercion of public employees). See *Young v. Bailey*, 781 S.E.2d 277 (N.C. 2016) (sheriffs) and *Sims-Campbell v. Welch*, 769 S.E.2d 643 (N.C. 2015) (registers of deeds). The North Carolina Supreme Court has also held, however, that records of applicants to fill a vacancy for the office of sheriff are confidential under the county personnel privacy statute, G.S. 153A-98. *Durham Herald Co. v. Cty. of Durham*, 334 N.C. 677 (1993). Why the different outcome? The court held that “[t]he clear purpose of [the personnel privacy statute] is to provide some confidentiality to those who apply to county boards or their agents for positions which those boards and their agents are authorized to fill.” Since boards of county commissioners have the authority fill vacancies in the offices of the sheriff and register of deeds, they likely have authority to discuss *applicants* for appointment in closed session under the provision designed to prevent the disclosure of confidential records. In addition, the register of deeds, the sheriff, and the sworn officers in the sheriff’s office may also be the subject of a closed session because of their status as public officers.

Links

- www.sog.unc.edu/publications/books/open-meetings-and-local-governments-north-carolina-some-questions-and-answers-eighth-edition-2017
- en.wikipedia.org/wiki/Sunshine_Week
- canons.sog.unc.edu/when-are-public-hearings-required/
- canons.sog.unc.edu/quick-reference-guide-for-closed-session-meetings/
- www.sog.unc.edu/publications/books/open-meetings-and-local-governments-north-carolina-some-questions-and-answers-eighth-edition-2017