



requires that “the Mayor must sign off on the agenda prior to its distribution to Council, and there is no requirement that the Mayor place items on the agenda that he believes do not merit Council’s consideration.” Plaintiffs sought reconsideration of this ruling, which the Court denied. Plaintiffs have appealed this ruling to the Court of Appeals.

Since the Court issued its March 18th Order, Plaintiffs have noticed and held several “special” meetings of Town Council, and have done so without submitting the proposed agenda for either meeting to the Mayor for his consideration. (Aff. Wilson ¶¶ 5, 9 (Apr. 14, 2014); Supplemental Aff. Wilson ¶¶ 3, 6 (Apr. 21, 2014)). During those meetings, Plaintiffs have attempted to amend the Town Ordinance that they presented to the Court for its review and interpretation in this lawsuit in order to take authority over the agenda away from the Mayor, as well as attempting to conduct other business.

Defendants have moved the Court for an order invalidating all actions Plaintiffs have attempted to take during all “special” meetings held in violation of the Court’s March 18th ruling. Both Plaintiffs and Defendants have submitted affidavits, memoranda, and additional evidence. On April 25, 2014, the Court held a hearing on the motions.<sup>1</sup>

After considering all of the evidence, arguments from counsel, and the governing law, the Court **GRANTS** Defendants' Motion to Enforce Order and Enjoin Contrary Conduct and exercises its authority under the Declaratory Judgment Act to enforce its prior ruling.

---

<sup>1</sup> Prior to the April 25, 2014 hearing, Plaintiffs filed a motion to cancel the hearing, arguing that the Court was without jurisdiction to hear Defendants’ motions in Richland County. Plaintiffs have since withdrawn that motion in light of an Order from the Supreme Court vesting the below-signed with jurisdiction to decide matters pending in the Eleventh Judicial Circuit while seated in Richland County on the day of the hearing.



## DISCUSSION

South Carolina Code § 15-53-120 provides as follows:

Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree to show cause why further relief should not be granted forthwith.

This authority is to be administered “liberally” to eliminate “uncertainty” regarding the parties’ rights. *Id.* § 15-53-130. For the reasons explained below, the Court finds that it is necessary and proper to issue further relief to enforce its earlier ruling in this case.

In the March 18th Order, the Court declared that under the Chapin Town Ordinances, agendas for Council meetings must be reviewed and approved by the Mayor prior to distribution to Council. (Order at 2–6 (Mar. 18, 2014)). This ruling was based on the plain language of Chapin Town Ordinance § 2.206(b), which states: “**The agenda shall be approved by the Mayor, prior to distribution.**” (emphasis added).

Since that ruling, Plaintiffs have taken the position that Ordinance § 2.206(b)—and thus the Court’s earlier ruling—is limited only to agendas for “regular” meetings, as opposed to “special” meetings. The Court disagrees with Plaintiffs’ post-judgment construction of the Court’s March 18th Order for several reasons.

First, Plaintiffs initiated this lawsuit but at no time prior to the March 18th Order did they indicate that the declaratory ruling that they sought was limited to the Mayor’s authority over agendas for “regular” meetings alone. To the contrary, Plaintiffs’ Motion for Preliminary Injunction specifically sought a ruling that would require the Mayor “to place any item requested by any member of Council on the agenda of the **next occurring Council meeting after the**

SR #3

request, without any delay.” (Mot. for Prelim. Inj. at 1 (Feb. 26, 2014) (emphasis added)). Plaintiffs’ requested relief was not limited only to “regular” meetings, but encompassed whatever type of meeting may happen to be the “next occurring” meeting after a Council member requested an item to be placed on a meeting agenda. In turn, the Court denied Plaintiffs’ motion and held that the Mayor has authority “to deny any item requested to be on the agenda for a Council meeting.” (Order at 6 (Mar. 18, 2014)). Accordingly, neither Plaintiffs’ requested relief nor the Court’s denial of that request was limited only to “regular” meetings, as Plaintiffs now suggest.

Second, the plain language of Chapin Town Ordinance § 2.206(b) does not distinguish among various types of meetings when assigning to the Mayor approval authority over meeting agendas. Ordinance § 2.206(b) is the only ordinance in the entire Town Code that discusses how an agenda should be prepared. It does not indicate that agendas for different types of meetings must be prepared in different ways, nor does it limit the Mayor’s approval authority only to “regular” meetings.

Ordinance § 2.206(b)’s failure to distinguish among different types of meetings with respect to establishing an agenda is consistent with the South Carolina Freedom of Information Act. That statute requires public bodies to publish an agenda for “regularly scheduled meetings,” “called” meetings, “special” meetings, and “rescheduled meetings.” S.C. Code Ann. § 30-4-80(a). In short, the Freedom of Information Act requires agendas to be prepared for all types of meetings, and Ordinance § 2.206(b) is the lone ordinance that prescribes how those agendas are established in Chapin.

Third and finally, the plain language of the ordinance on which Plaintiffs have based their post-judgment actions does not provide support for those actions. Plaintiffs argue that Ordinance

§ 2.202 authorizes them, as a majority of Council, to call “special” meetings, and that the authority to call a “special” meeting implicitly permits them to establish the agenda for such a meeting without any input or oversight by the Mayor. Ordinance § 2.202, however, only indicates when “special meetings may be held”; nothing in that ordinance indicates how the agenda for a “special” meeting is established. Instead, that language is found exclusively in Ordinance § 2.206(b).

To read into Ordinance § 2.202 a provision that subverts the Mayor’s authority under Ordinance § 2.206(b) to approve meeting agendas would amount to an implied repeal of the Mayor’s approval authority in the context of “special” meetings. Such a construction would violate numerous rules of statutory interpretation. For one, the law strongly disfavors implied repeal. *See Capco of Summerville, Inc. v. J.H. Gayle Constr. Co.*, 368 S.C. 137, 141, 628 S.E.2d 38, 41 (2006) (explaining that “[r]epeal by implication is disfavored”).

Similarly, when a set of statutes deals with the same general subject—here, meetings of Council—the entire set should be construed harmoniously to produce a uniform result. *See Beaufort County v. S.C. State Election Comm’n*, 395 S.C. 366, 371, 718 S.E.2d 432, 435 (2011) (“Moreover, it is well settled that statutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible, to produce a single, harmonious result.”). Indeed, “the principle that related statutes should be construed *in pari materia* is a restatement of the presumption against implied repeal.” 2B Norman J. Singer & J.D. Shambie Singer, *Sutherland Statutes and Statutory Construction* § 51:1 at 190–91 (7th ed. 2012).

As a result of these well-established rules of statutory construction, “where a legislature inserts a provision in only one of two statutes that deal with a closely related subject, courts construe the omission as deliberate rather than inadvertent.” *Id.* § 51:1, at 213–14.

Because Chapin Town Ordinance § 2.202 does not contain any language regarding how an agenda should be established for “special” meetings, but Ordinance § 2.206(b) expressly vests in the Mayor the authority to approve meeting agendas, the Court will not read into Ordinance § 2.202 any authority for Plaintiffs to set the agenda for a “special” meeting without first presenting the agenda to the Mayor for his approval, as required by Ordinance § 2.206(b) and the Court’s March 18th Order.

In so ruling, the Court does not express any opinion on the wisdom of the Chapin Town Ordinances or the authority that they vest in the Mayor over meeting agendas. If, in the eyes of the voters, the Mayor does not properly exercise his authority over the agenda, then they will hold him accountable at the ballot box. But this Court is not a proper venue for such a political argument.

Instead, the Court only interprets the Chapin Town Ordinances according to their plain language. As one treatise describes the Court’s responsibilities:

[A]n omission or failure to provide for contingencies, which it may seem wise to have provided for specifically, does not justify any judicial addition to the language of the statute. To the contrary, it is the duty of the courts to interpret a statute as they find it, without reference to whether its provisions are wise or unwise, necessary or unnecessary, appropriate or inappropriate, or well or ill conceived.

73 Am. Jur. 2d *Statutes* § 164 at 398–99 (2012). The Court has fulfilled its duty to enforce the law as it is written in both this ruling and in its March 18th Order.

### CONCLUSION


For the reasons explained above, the Court exercises its authority under South Carolina Code § 15-53-120 to issue further relief in support of its declaratory ruling. The Court finds Plaintiffs’ post-judgment “special” meetings to have been unlawfully held because the proposed

GT #6

agendas for those meetings were never presented to the Mayor for his approval under Ordinance § 2.206(b) and the Court's March 18th Order. Any votes or actions Plaintiffs attempted to take or other business Plaintiffs attempted to conduct at all meetings held contrary to Ordinance § 2.206(b) and the Court's March 18th Order are hereby invalidated and deemed to be without any force or effect.

**IT IS SO ORDERED.**

Columbia, South Carolina  
May 5, 2014

  
G. Thomas Cooper, Jr., Judge  
Fifth Judicial Circuit

FORM 4

STATE OF SOUTH CAROLINA  
 COUNTY OF LEXINGTON  
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2014CP3200697

Vivian Atkins Kay Hollis	Robert P Frick James R Wilson Jr Town of Chapin Gregg White
-----------------------------	--

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
---------------	---

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order; (formal order to follow)  Statement of Judgment by the Court:

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge	Judge Code	Date
<b>For Clerk of Court Office Use Only</b>		

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on **7th of May 2014**, to attorneys of record or to parties (when appearing pro se) as follows:

**Spencer Andrew Syrett**  
PO Box 7403 Columbia, SC 29202

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

**Matthew Todd Carroll**  
1727 Hampton Street - Columbia, SC 29201

**ATTORNEY(S) FOR THE DEFENDANT(S)**

Beth A. Carrigg/mh

**Court Reporter**

Beth A. Carrigg - Clerk of Court

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

---

---

---

---

---

---

---

---