



No More Last Minute Changes:

Pennsylvania Court Tightens Rules on Council Meeting Agenda Updates

The Commonwealth Court's decision in *Coleman v. Parkland Sch. Dist.*, 305 A.3d 238 (Pa. Commw. Ct. 2023) has significant implications for boroughs in Pennsylvania. The Court ruled that Section 712.1(e) of the Sunshine Act is not a standalone exception allowing borough councils to add any agenda item by majority vote. Instead, it is a procedural tool that applies only when one of three specific exceptions is met: emergencies, minor (de minimis) matters arising within 24 hours of the meeting, or minor matters raised by residents during the meeting. This ruling reinforces the importance of transparency and limits how borough councils can modify agendas after they are posted.

Case Summary

In *Coleman*, the Parkland School Board posted a meeting agenda the day before its scheduled meeting but did not include approval of a collective bargaining agreement. On the meeting day, after teachers approved the agreement, the board amended the agenda under Section 712.1(e) of the Sunshine Act to add the agreement for approval. A resident objected, arguing this violated the Sunshine Act. The Commonwealth Court agreed, ruling that the board overstepped its authority.

The Sunshine Act's Requirements

The Sunshine Act, updated in 2021, requires boroughs to post meeting agendas online 24 hours before the meeting. Section 709(c.1)(1)(i) states:

"If the agency has a publicly accessible internet website, the agency shall post the agenda, which includes a listing of each matter of agency business that will be or may be the subject of deliberation or official action at the meeting, on the website no later than 24 hours in advance of the time of the convening of the meeting."

Section 712.1 further restricts boroughs from acting on items not listed on the agenda, with four exceptions:

1. Emergency business: Matters involving a clear danger to life or property.
2. Business arising within 24 hours: Minor matters that do not involve spending money or entering contracts.

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3. Business raised during the meeting: Minor matters brought up by residents or taxpayers.
4. Agenda changes by majority vote: Items added during the meeting by a majority vote, with reasons announced and the amended agenda posted the next business day.

The Court's Decision

The court in *Coleman* interpreted Section 712.1 narrowly, ruling that the fourth exception (agenda changes by majority vote) is not a standalone exception. Instead, it is a procedural step that applies only when one of the first three exceptions (emergencies, minor matters, or minor resident-raised issues) is used. The court feared that allowing borough councils to add any item by majority vote would undermine the 24-hour notice requirement.

What This Means for Boroughs

Unless *Coleman* is overturned, borough councils can no longer use Section 712.1(e) as a “catch-all” to add any agenda item by majority vote. They can only add items if:

1. The item relates to an emergency involving life or property.
2. The item arises within 24 hours before the meeting and is minor, with no spending or contracts involved.
3. A resident or taxpayer raises the item during the meeting, and it is minor, with no spending or contracts involved.

If one of these exceptions applies, boroughs must:

1. Announce the reason for the change before voting.
2. Post the amended agenda by the next business day.
3. Include the change, the vote, and the reasons in the meeting minutes.

How to Cure a Sunshine Act Violation in 30 Days

If a borough council has acted on an item added to the agenda in violation of the Sunshine Act, there is a way to fix the problem—but timing is critical. Under Section 713 of the Sunshine Act, challenges to alleged violations must be filed within 30 days of the meeting where the violation occurred.

As a result, a borough council can hold a new public meeting and formally ratify the action taken at the previous meeting. This means voting on the item again after properly including it on the agenda and providing the required 24-hour notice. Since the 30-day window is strict, boroughs should schedule the ratification meeting as soon as possible after discovering the potential violation.

During the ratification meeting, borough council must ensure it complies with all Sunshine Act requirements, including:





Harrisburg Judicial Center. Photo by Heather Moreland.

1. Posting the agenda 24 hours in advance.
2. Announcing the reason for adding the item, if applicable.
3. Documenting the vote and reasons in the meeting minutes.

In *Coleman*, the school district successfully cured its Sunshine Act violation by ratifying the approval of the collective bargaining agreement at a later meeting. The court upheld this approach, confirming that ratification is a valid way to address procedural errors under the Sunshine Act.

Appeal to the Pennsylvania Supreme Court

The Parkland School District has appealed the Commonwealth Court's decision to the Pennsylvania Supreme Court. The Supreme Court agreed to hear the appeal, *Coleman v. Parkland Sch. Dist.*, Docket No. 33 MAP 2024 (Pa. 2024). The Court heard oral arguments on November 20, 2024, but has not yet issued its decision. The outcome of this appeal could significantly impact how boroughs interpret and apply the Sunshine Act's agenda amendment rules.

Coleman v. Parkland Sch. Dist., 305 A.3d 238 (Pa. Commw. Ct. 2023).

Coleman v. Parkland Sch. Dist., Docket No. 33 MAP 2024 (Pa. 2024).
65 Pa.C.S. §§ 709(c.1), 712.1.



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