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2012 Annual Local Government
Officials' Conference

MINUTES

Presented by:
Brendan M. Inscho
Assistant Legal Counsel

James Madison clearly laid out the strength of our government when he said:

“ A popular government without popular information or the means of acquiring it, is but a prologue to farce or a tragedy or perhaps both.”



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Thomas Jefferson further expounded on this principle by stating:

“The way to prevent errors of the people is to go give them full information of their affairs through a channel of public papers and to contrive that those papers should penetrate the whole mass of the people.”



Jefferson



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The **Ohio Supreme Court** has stated:

“The rule in Ohio is that public records are the people’s records, and that the officials in whose custody they happen to be are merely trustees for the people.”



State ex rel Patterson v. Ayers (1960) Ohio St. 369



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Open Meeting Minutes Requirements



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How Detailed Must Meeting Minutes Be?

- Minutes must be “full and accurate” and state sufficient facts and information to permit the public to understand and appreciate the rationale behind the public body’s decision.
- The public not only has a right to know a government body’s final decision on a matter, but also the means by which those decisions were reached.

Long v. Council of the Village of Cardington, quoting



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Recording Minutes: The Test

It is not necessary to record meeting minutes verbatim.

The Test: Can someone who did not attend a particular meeting read the minutes and understand everything that occurred during the meeting and understand why action was or was not taken?



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Minutes

- The word "minutes" is not defined in the Revised Code. A common definition is "a series of brief notes taken to provide a record of proceedings * * * : an official record composed of such notes." (*Webster's Third New International Dictionary (1986)*).
- The minutes are the official record of your governing body.
- The minutes must contain sufficient facts and information to permit the public to understand and appreciate the rationale behind the public body's decisions.



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General Requirements

The minutes of a public body must:

- Be full and accurate
- Include the names of the attendees
- Include the roll call votes
- Be promptly prepared, approved, filed and made available for public inspection



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General Requirements - Attendees:

The minutes should reflect:

- ✿ The names of all members of the governing body of the entity **present**;
- ✿ The names of all members of the governing body of the entity **absent**;
- ✿ The names of all of the entity's **guests**.



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General Requirements - Roll Call/Votes:

- Motions to take a vote:
"Motion made by: (Insert Name)"
"Motion seconded by: (Insert Name)"
- The results of each vote (yea & nay or yes & no), along with the tally of the votes.



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Executive Session

There is no requirement for minutes of executive session. Instead, the general meeting minutes need only describe the general subject matter of the discussions held in executive session, not the discussions themselves. This requirement is normally satisfied by a specific motion used to move into executive session.



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What is an “Executive Session”?

- The public body *excludes* the public from a portion of an open meeting
- May only be held to discuss limited, specific matters
- Only people *invited* by the public body may join the executive session; and
- The public body may permit anyone it chooses to attend.



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Unconditional Rules for Executive Session

- **Rule #1** Executive session must always begin and end in an open session
- **Rule #2** Requires a roll call vote to adjourn into executive session
- **Rule #3** There can be no decision-making (voting) during executive session
- **Rule #4** Return to open session should be noted in the minutes.



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Acceptable Topics for Discussion in Executive Session

1. Appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official.
2. Purchase of property for public purposes, or sale of property at competitive bidding.
3. Conference with attorney for public body to discuss pending or imminent court action.
4. Preparing for, conducting, or reviewing negotiations with public employees.



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Acceptable Topics for Discussion in Executive Session (continued)

- 5. Matters to be kept confidential by federal law or rules or state statutes.
- 6. Security arrangements and emergency response protocols.
- 7. County and Municipal hospital trade secrets.



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Medium

- Although generally kept on paper, the medium on which official meeting minutes are kept is not addressed in either the Open Meetings or the Public Records Act. Therefore, that can be determined by the public body itself.
- Some public bodies document their choice by adopting a formal rule, or by passing a resolution or motion at a meeting that is reflected in the minutes.



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Audio/Video Taping Open Meetings



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Taping Open Meetings: The Good, The Bad and The Inaudible

If you want to audio tape your meetings and use the tapes as your official meeting minutes, be aware of the following:

The Ohio Supreme Court determined that audio tapes were not sufficient as the official minutes where:

- portions of the tape were inaudible or not understandable;
- the speaker could not be identified.



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Audio Taping Open Meetings

Taping the meetings to rely on in preparing written minutes is a good idea, but remember:

- the tape is a public record;
- add the tapes to your records retention schedule to allow for their reuse, otherwise you will need to retain them indefinitely.



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Video Taping Meetings

Suggestions when video recording meetings as the official minutes:

- Insure all members of the public body are clearly visible;
- Identify each member of the public body with a name placard;
- "Mike" each member of the public body so they are clearly heard;
- Be aware of storage and retention issues for video tapes.



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Agendas

- An agenda should be prepared prior to each meeting that includes old and new business to be discussed.
- Meeting agendas expedite the business of the board and contributes to the orderly and efficient conduct of township business
- The agenda should be distributed to the legislative body at least five (5) days before the meeting.



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Suggested Agenda

1. Approval of the previous meeting minutes
2. Reports of Officers, Boards, Standing Committees (includes correspondence, treasurer's report, etc.)
3. Reports of Special Committees
4. Unfinished (Old) Business
5. New Business
6. Adjournment



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Approval of Minutes

- No statutory provisions
- It is **customary** that the minutes be approved at the next meeting
- Draft copies of minutes are a public record and should be included in your retention schedule
- It is **customary** that, for a municipality, the clerk and the mayor sign the minutes



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Ohio Attorney General Opinion 2007-019

- No statute in the Ohio Revised Code requires a village council approve the minutes of its meetings.
- R.C. 121.22(C) requires meeting minutes of a public body be prepared and filed, but does not provide that if the minutes are not properly approved, the actions recorded in the minutes are void.
- Minutes serve as records of actions, not as actions themselves.



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Ohio Attorney General Opinion 2007-019 (continued)

- However, the board may decide that approval of the minutes of its regular meetings is meant to verify that the minutes accurately and truthfully record all the events that occurred at a particular meeting.
- The approval of meeting minutes is recognized by courts and under generally accepted rules of parliamentary procedure.
- "An administrative board only speaks through its journalized minutes. Until the board's minutes are approved and journalized, they are subject to change and, therefore, are not final."

Robert's Rules of Order, Newly Revised, 343 (10th ed. 2000)



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Work Sessions

- ✓ **"Work Sessions"** or **"workshops"** are meetings where public business is discussed among a majority of the members of a public body at a prearranged time.
- ✓ Accordingly, work sessions must be open to the public, properly noticed, and minutes must be maintained.



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When to Use Ordinances, Resolutions, and Motions



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Motion

What is a *motion*?

- A “proposal made under formal parliamentary procedure.” (Black’s Dictionary, Second Pocket Edition).
- Action by the legislative authority not required by law to be taken by ordinance or resolution may be taken by motion.
- A motion must be approved by at least a majority vote of the members present.



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Motion (*continued*)

When should a motion be used?

A motion is normally used to **expedite** and **control** the deliberations of the legislative authority in the transaction of business.

Procedural matters; e.g., accepting minutes; adjournment; deciding to pass a resolution



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Motion *(continued)*

- ❖ State the motion
- ❖ Second the motion
- ❖ Discuss the motion
- ❖ Vote
- ❖ Result of the motion should always be announced



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Resolutions and Ordinances

In order to comply with the “**full and accurate**” requirement – discussion regarding ordinances and resolutions should be recorded in the minutes.



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Resolution

A **resolution** is a formal expression of an opinion, intention, or decision by an official body or assembly which becomes the regulation of the board.

– Typically used for short-term policies or decisions

e.g., entering into contracts; all major expenditures purchasing or selling land, buildings or equipment; transfers of money; adopting policies or other regulations for the governing of the board, clerk, fiscal officer and employees.



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Resolution *(continued)*

- Used for internal, administrative purposes
- Are not laws; do not carry weight in court
- Are not “enforceable”
- Intended to have a temporary effect
- Merely asserts the consensus of a public body



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Ordinance

An **ordinance** is a formal written enactment

Typically used for **permanent** laws or regulations –

- Requires publication
- Governs matters not already covered by state or federal laws:



i.e. zoning, safety, building regulations



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Repealing an Ordinance

In general:

- The rule that a governing body has the power to enact ordinances applies also to the power to amend and appeal ordinances.
- Per ORC 731.19, an ordinance that replaces one that is repealed, must contain the text of the repealed ordinance.



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Repealing an Ordinance (continued)

Pursuant to ORC 731.17:

- 1) Each ordinance shall be read by title only on 3 different days
- 2) Voting shall be taken by yeas and nays
- 3) Passage requires at least a majority of the members of village council or as required by charter; mayor breaks a tie vote; results recorded in the journal.



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Summary: Resolution or Ordinance?

What is the difference and when should each be used?

Ordinances are typically used for **permanent laws** or regulations.

Resolutions are typically used for **short-term policies** or decisions such as expenditures.



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Proper Storage/Retention of Minutes

Each political subdivision should establish:

- Records Commission
- Records Officer
- Retention Schedules



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Records Commission

- ✓ Provide rules for retention and disposal of records;
- ✓ Review retention schedules & disposal requests submitted by offices;
- ✓ Assure that proper procedures are followed for scheduling and disposing of records;
- ✓ Revise the retention schedules as needed.



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Records Officer

- Responsible for all aspects of records retention and disposition within the political subdivision
- Serves as a liaison to the records commission and to other agencies
- Should understand the duties and responsibilities of the political subdivision and the records it creates and maintains



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Retention Schedules

- Every record must be covered by a retention schedule – not just public records
- Provide the foundation of any records management program
- Provide for ongoing disposal of records
- Prevents the build up of unnecessary records
- Can be a legal asset



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Determining Retention Periods

- Administrative Value?
- Fiscal Value?
- Legal value?
- Historical Value?



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Administrative Value

A record has administrative value if it is used by the office to carry out – that is, to “administer”- its duties.

Examples: manuals, memos setting out office policies and procedures, organizational charts

- The **political subdivision** determines the Administrative value of a document



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Fiscal Value

A record has fiscal value if it pertains to the receipt, transfer, payment, adjustment, or encumbrance of funds or if it is required for an audit.

Examples: payroll records, travel vouchers

- Consult the **Auditor of State’s Office** if you have any questions regarding the fiscal value of a document.



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Legal Value

A record has legal value if it documents or protects the rights or obligations of citizens or the agency that created it.

Examples: contracts, real estate records

- The political **subdivision's legal counsel** should determine the legal value of a document.



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Historical Value

A record has historical value if it contains significant information about people, places or events. The State Archives suggests that historical documents be retained permanently.

Examples: Village Council meeting minutes and annual reports

- Consult the **Ohio Historical Society** for questions in determining the historical value of a document



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Ohio Historical Society

Review the **Ohio Historical Society's Municipal Records Manual** for sample retention policies and more detailed records retention information:

- **Ohio Municipal Records Manual**
<http://www.ohiohistory.com/resource/lgr/Munimanual2.2001.pdf>
- Village records retention requirements:
ORC 149.43



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Important Resource

The Ohio Historical Society
Local Government Records Program
1982 Velma Avenue
Columbus, Ohio 43211

(614) 297-2553

localrecs@ohiohistory.org



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LEGAL DIVISION

88 East Broad Street
Columbus, Ohio 43215

Brendan M. Inscho

Presenter Phone: (800) 282-0370

Presenter Fax: (614) 466-4490

E-mail: contactus@ohioauditor.gov



Ohio Auditor of State
Dave Yost

www.ohioauditor.gov



Dave Yost
Auditor of State

88 East Broad Street
Columbus, Ohio 43215

Phone: (800) 282-0370 Fax: (614) 466-4490

E-mail: contactus@ohioauditor.gov

www.ohioauditor.gov
