
Presented by:
Mark W. Altier
Chief Legal Counsel

Practices and Procedures of Ohio Deliberative Bodies

AND

Robert’s Rules of Order
Henry Martyn Robert
Graduated from West Point 1857
Brigadier General, Chief of Engineers

1876 – Published First Edition of Robert's Rules of Order for Deliberative Assemblies
Codifies General Parliamentary Procedures
✓ Synthesize of British Parliamentary Practice
✓ Continuously Revised since First Edition

Not binding on any body unless adopted
Not imposed by Ohio Revised Code
Often used in common practice by public and private
What are Parliamentary Procedures?

- Rules to ensure order and fairness in decision-making processes
- Facilitate meetings and maintain order
- Ensure all members have opportunity to participate
- Allow agreement
- Majority rule while protecting minority rights

The Presiding Officer: FUNCTIONS

- President, Chair
- Conducts the meetings:
  - Calls the meeting to order
  - Announces business
  - Recognizes members to speak
  - Rules on procedural matters (subject to appeal)
  - Put all questions to vote and announces result

Goals of Presiding Officer

- Avoid frivolous and dilatory tactics
- Enforce the rules related to debate
- Expedite business in an orderly manner
- Decide questions of order
- Declare meetings adjourned
Order of Business / Agenda

- Sequence of items to be addressed
- Adopted by body

AGENDA
April 1, 2015

I. Roll call
II. Approval of March 3, 2015 meeting minutes
III. Repair and repave intersection of Broad and High Streets
   A. Accept bids
      1) Road work materials
      2) Purchase and installation of traffic light
   B. Enter shared services agreement for equipment and staff

Adopted by council:
John Smith
Fredrick Jones
Sally Adams
Robert Barber
Nancy Young

Common Order of Business/Agenda

- May Establish Order
- Call to order
- Roll call
- Approval of agenda
- Reading, correction and approval of minutes
- Special orders
- Old/unfinished business
- New Business

Motions

Formal proposal that proposes specific action

Placed to the body before debate and discussion
Classes of Motions

Main Motions

Secondary Motions

- Subsidiary
- Privileged
- Incidental

Precedence of Motions
*(Pronounced Pre-Seed-Ins)*

- Priority of motions
- When a motion is pending
  - Any motion above is in order
  - Any motion below is not

**1st** Main Motions

- Proposes specific action by the body
- Consider only one at a time
- One made and seconded must be disposed of
- Lowest ranking in order of preference for *2nd* consideration

**2nd**
Secondary Motions

• Related to and takes preference over main
• Must be disposed of before acting on main

Types of Secondary Motions

- Subsidiary
- Incidental
- Privileged

Examples:
- To amend
- To postpone definitely
- To lay on table

Subsidiary Motions

Assist in Disposing of Another Motion
Incidental Motions

- Raise questions as to pending business or how to address pending business
- Examples:
  - Point of order
  - Point of information
  - Appeal the ruling of the chair
  - Suspend the rules
  - Consider by paragraph

Privileged Motions

- Matters of immediate importance which justify interruption
- Examples:
  - Orders of the day
  - Raise a question of privilege
  - Recess
  - Adjourn

Matter Back Before the Body

- Examples:
  - Take from the table
  - Reconsider
  - Rescind
  - Discharge a committee
Motions That Require Majority Vote
- Main motion
- Adjournment
- Recess
- Lay on the table
- Refer to committee
- Amend
- Reconsider
- Rescind (with prior notice)
- Postpone indefinitely
- Postpone definitely

Motions That Require 2/3 Vote
- Previous question
- Limit or extend debate
- Object to consideration of a question
- Suspend the rules
- Rescind (without prior notice)
- Discharge committee (without prior notice)

Presenting a Motion
- Maker should say:
  - “I move that...” OR “I move to...
  - Never “I make a motion to...”
  OR “I make a motion that...”
- Must be seconded:
  - Indicates only agreement to allow debate
Procedure After A Motion Has Been Made and Seconded

• The chair restates the motion
  “It has been moved and seconded that...”
  “Are there any questions?”
• Once restated it belongs to the body

Debate Follows

• Member must be recognized by chair
• Moving member has privilege of first speech

After Debate is Concluded

• Chair puts the matter to a vote
• Chair announces result of vote
Amending A Motion

- Amending
  - Modifying a pending motion prior to a vote
  - Must be germane
    - Related to the pending motion
    - Relevant bearing on its meaning
- Requires a second
- Can be applied to any main motion
- Is debatable
- Requires a majority vote to adopt
- Can be reconsidered

Three Basic Amendment Processes

- To insert or add words
- To strike out words
- To strike out and insert words

Appeal from the Decision of the Chair

- Appeal From the Decision
  - Dispute chair's ruling and let members decide
  - Requires a second
  - Must be made at the time ruling is made
  - Is debatable
  - Is not amendable
  - Can be reconsidered
- Chair gets first opportunity to speak
- “Shall the decision of the chair be sustained?”
- Majority or tie vote sustains
Motion to Postpone Indefinitely

- Result: Take no position
- Must be seconded
- Is debatable
- Is not amendable
- Requires majority vote to pass
- Effectively kills the motion

Motion to Postpone Definitely

- Postpone Definitely
  - Defers vote on main motion to a specified future time
  - Must be seconded
  - Is debatable
- Is amendable
- Requires majority vote to approve

Motion to Lay on the Table

- Temporarily defers consideration of a pending motion
  - Must be seconded
  - Is not debatable
  - Is not amendable
  - Requires majority vote to pass
- Motion is returned for consideration during the same meeting
The Basic Rules of Parliamentary Procedure

All Members are Equal and Their Rights are Equal
- To attend meetings
- To make motions
- To speak
- To vote

A Quorum Must be Present to Conduct Business
Usually majority
Physically present
The Majority Rules *(usually)*

• Super majority vote required
  o By statute
  o Per Robert’s:
    ➢ To limit or to take away rights of members
    ➢ To change a decision previously made

• Silence means Consent

One Speaker at a Time

Personal Remarks In Debate Are ALWAYS Out of Order
Resolution

- Written Motion
- Adopted by deliberative body
- Anything normally done by Motion
- Often transitory
- Statement of intention or position
- Written
- Required by statute
- Greater formality
- Townships and others

Open Meetings Act Overview

Meeting
A prearranged gathering of a majority of members of a public body conducting or discussing public business

Open Meetings Act Obligations

- Give appropriate notice
- Deliberate on public business in open session
- Take and file minutes
Notice Requirement

• Public bodies establish their own notice rules
• Notice requirements depend on the type of meeting
  ➢ Regular Meetings
    • Time and place
  ➢ Special Meetings
    • Time, place, and purpose
    • 24 hours notice to all media outlets that have requested it
  ➢ Emergency Meetings
    • Immediate notice required

Openness Requirement

“All meetings of any public body are declared to be public meetings open to the public at all times.”
R.C. 121.22(C)

Minutes

“The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to the public.”
O.R.C. 121.22(C)
Minutes

• Must be full and accurate
  o Do not have to be verbatim transcript
  o Should enable the public to understand the rationale behind decisions
• There is no requirement to keep minutes of executive sessions.

Minutes

White v. Clinton, Cty. Bd. of Commrs., 76 Ohio St.3d 416 (1996)

• Clinton County Commissioners adopted a new policy
  o Required inspector to get approval before performing any joint inspections with outside agencies
  o Banned building and electrical inspections unless a fire inspector and 2 trustees requested inspection
• County health dept. became concerned with how policies would impact health dept. procedures
  o Requested minutes of meeting at which Commissioners discussed and adopted new policies
  o Minutes provided did not mention the new policies
  o Minutes of Commissioners’ meetings included only roll call votes

Court held:
• Minutes should not be limited to a mere recounting of the body’s roll call votes
  o Must be a “full and accurate record”
• Minutes did not enable public to understand rationale behind new policy
  o Should have provided a better understanding of the Commissioners’ orders
Minutes

State ex rel. Long v. Cardington Village Council, 92 Ohio St.3d 54 (2001)

Court found that the Village’s minutes:

- Contained inaccuracies
  - Erroneously included former council member in roll call
- Did not contain sufficient facts to understand & appreciate rationale behind decisions
  - Did not include motions or votes
  - In one case, minutes merely state that “a meeting was held to sign off on all accounts”
- Failed to state with specificity the reasons for executive session
  - Listed “personnel” instead of one of the specific matters in O.R.C. 121.22(G)(1)

Open Meetings Act

Executive Sessions

Procedure

- Motion
  - Must identify the particular purpose and matter
- Second
- Roll call vote

Executive Session

Acceptable Topics

1. Certain personnel matters (must be specific)
2. Purchase or sale of property
3. Pending or imminent court action
4. Collective bargaining matters
5. Matters required to be kept confidential
6. Security matters
7. Hospital trade secrets
8. Confidential business information of an applicant for economic development assistance
9. Veterans Service Commission applications
Executive Sessions
What NOT to Do

• Vote
• Make any decisions
• Even a decision to take no action
• Discuss any other matters

Executive Sessions
Confidentiality

• The Open Meetings Act does not create a provision for confidentiality

• Ethics laws and other privileges may require confidentiality
  • BUT – those may not apply if members of the public are invited

• NOTE: Just because a record is created in executive session does not make it confidential

Public Records Act
Quick Overview

• Public Records Act – ORC 149.43
• General Obligations
  • Adopt public records policy
  • Promptly prepare records and make available for inspection
  • Make copies within a reasonable time
  • Follow an approved records retention schedule
Public Records Act
Quick Overview

A "record" is:
1. Any document, device, or item, regardless of physical form or characteristic, including electronic records,
2. Created or received by or coming under the jurisdiction of any public office
3. Which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

What About My Notes From the Meeting?

• Not public records if:
  o Personal papers
  o Kept for convenience and
  o Others did not use or have access

• State ex rel. Crawford v. Cleveland, 2004 Ohio 4884

Fiscal Officer’s Notes


• Twp. fiscal officer used combination of notes and memory to draft minutes
  o Notes were taken for her convenience
    ➤ To remember names and proposed amendments
  o Notes were not used by the twp.
    ➤ Took notes home with her
    ➤ No one at twp. had access
  o Notes did not contain enough information to reflect an accurate record

• Court found that FO’s notes were personal in nature and not a public record
Drafts?

• Address in retention schedule
• Superseded Drafts
  o Subject to disclosure while they are “kept”

Legal Division
88 East Broad Street
Columbus, Ohio 43215

Mark W. Altier
Chief Legal Counsel
Presenter Phone: (800) 282-0370
Presenter Fax: (614) 466-4333
E-mail: contactus@ohioauditor.gov

Ohio Auditor of State
Dave Yost
88 E. Broad St.
Columbus, Ohio 43215
Phone: (800) 282-0370 Fax: (614) 466-4190
Email: ContactUs@OhioAuditor.gov
www.OhioAuditor.gov