

OHIO AUDITOR OF STATE  
KEITH FABER

*Practices and Procedures  
of Ohio Deliberative  
Bodies and Robert's Rules  
of Order*

Presented by:  
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Assistant Legal Counsel

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**PRACTICES AND PROCEDURES OF  
OHIO DELIBERATIVE BODIES**

*AND*

**ROBERT'S RULES OF ORDER**

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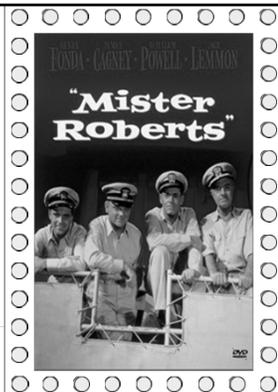
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Henry Martyn Robert



Graduated from West Point 1857



Brigadier General, Chief of Engineers



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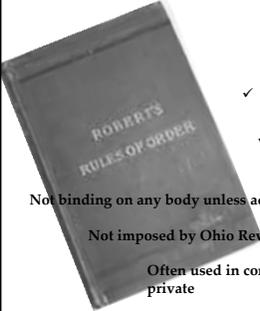
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1876 – Published First Edition of Robert’s Rules of Order for Deliberative Assemblies



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

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## What are Parliamentary Procedures?

**RULES**

- ⊗ 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

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## 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



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## 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

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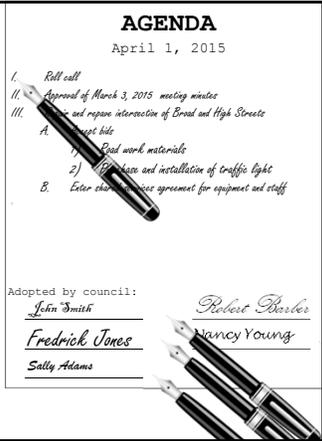
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# Order of Business / Agenda

- ⊗ Sequence of items to be addressed
- ⊗ Adopted by body




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## 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




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**1S**

Formal proposal that proposes specific action



Placed to the body before debate and discussion

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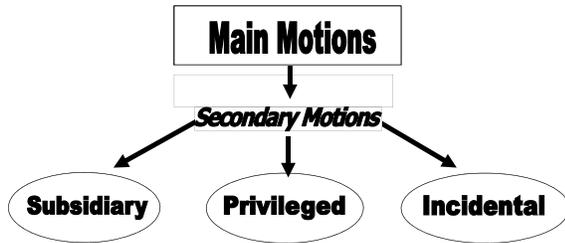
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## Classes of Motions



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## Precedence of Motions (Pronounced Pre-Seed)

& Priority of motions

& When a motion is pending

∅ Any motion above is in order

∅ Any motion below it is not



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## 1<sup>st</sup> 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 consideration

## 2<sup>nd</sup>

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*Motion for vote  
Build new park  
at the corner of  
Main and Vine  
Streets*

Related to and takes  
reference over main  
can be considered while  
is pending  
must be disposed of before  
acting on main



**Secondary Motions**

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Types of Secondary Motions

**Subsidiary**  
**MOTIONS**  
**Incidental**  
**Privileged**

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**Subsidiary Motions**  
*Assist in Disposing of Another Motion*

Examples:

- ∅ To amend
- ∅ To postpone definitely
- ∅ To lay on table




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## 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



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## Privileged Motions

↳ Matters of immediate importance which justify interruption

↳ Examples:

- ⌘ Orders of the day
- ⌘ Raise a question of privilege
- ⌘ Recess
- ⌘ Adjourn



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## Matter Back Before the Body

↳ Examples:

- ⌘ Take from the table
- ⌘ Reconsider
- ⌘ Rescind
- ⌘ Discharge a committee



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## 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

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## 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)



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## Presenting a Motion



- ⌘ Maker should say:
  - ⌘ "I move that . . ." OR "I move to . . ."
  - ⌘ Never "I make a motion to . . ."
- Must be seconded
  - Indicates only agreement to allow debate

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## 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

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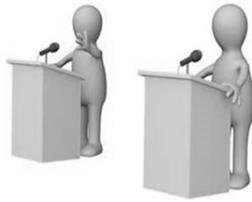
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- ⌘ Member must be recognized by chair

- ⌘ Moving member has privilege of first speech

## Debate Follows



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## After Debate is Concluded



- ⌘ Chair puts the matter to a vote

- ⌘ Chair announces result of vote

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## 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



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## Three Basic Amendment Processes

To insert or add words

To strike out words

To strike out and insert words

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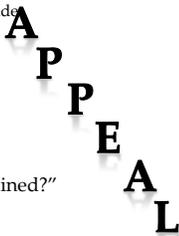
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## Appeal from the Decision of the Chair

- ⌘ 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



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## 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

Yes

No

Maybe

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## 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



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## 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

TEMPORARY TEMP

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**The Basic Rules of Parliamentary Procedure**

**Rules**

1. We can . . . . .
2. We can't . . . . .
3. We should . . . . .
4. We shouldn't . . . . .

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**All Members are Equal and Their Rights are Equal**

- & To attend meetings
- & To make motions
- & To speak
- & To vote

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**A Quorum Must be Present to Conduct Business**

Usually majority

Physically present

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## The Majority Rules (usually)

⌘ Super majority vote required

⌘ By statute

⌘ Per Robert's:

⌘ To limit or to take away rights of members

⌘ To change a decision previously made

⌘ Silence means Consent

**MAJORITY RULES!**

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**One Speaker at a Time**  
**One Question at a Time**

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**Personal Remarks In Debate  
Are ALWAYS Out of Order**



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## 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

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## Open Meetings Act Overview

### Meeting

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



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## Open Meetings Act Obligations

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



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- ⌘ 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

## Notice Requirement

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"All meetings of any public body are declared to be public meetings **open to the public at all times.**"

R.C. 121.22(C)

## Open Requirement

Meeting on open meetings is closed



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## 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)

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☒ **Must be full and accurate**

- ☞ Do not have to be verbatim transcript
- ☞ Should enable the public to understand the rationale behind decisions

☒ There is no requirement to keep minutes of executive sessions.



# Minutes

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# Minutes

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

- ☒ Clinton County Commissioners adopted a new policy
  - ☞ Required inspector to get approval before performing any joint inspections with outside agencies
  - ☞ Barred 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
  - ☞ Requested minutes of meeting at which Commissioners discussed and adopted new policies
  - ☞ Minutes provided did not mention the new policies
  - ☞ Minutes of Commissioners' meetings included only roll call votes

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

**Court held:**

- **Minutes should not be limited to a mere recounting of the body's roll call votes**
  - ☞ Must be a "full and accurate record"
- ☒ **Minutes did not enable public to understand rationale behind new policy**
  - ☞ Should have provided a better understanding of the Commissioners orders



# Minutes

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# Minutes

**Insufficient and Inaccurate**

*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)

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# Open Meetings Act

## Executive Sessions

### Procedure

⌘ Motion

- ⌘ Must identify the particular purpose and matter

⌘ Second

⌘ Roll call vote



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# 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



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# Executive Sessions

## What NOT to Do

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



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# 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



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# 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



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# 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.

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## What About My Notes From the Meeting?

⊗ Not public records if:

- ⊗ Personal papers
- ⊗ Kept for convenience; and
- ⊗ Others did not use or have access

⊗ *State ex rel. Cranford v. Cleveland*, 2004 Ohio 4884



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## Fiscal Officer's Notes

*State ex rel. Santefort v. Wayne Twp. Bd. of Trustees*, 2015-Ohio-2009

⊗ Twp. fiscal officer used combination of notes and memory to draft minutes

- ⊗ Notes were taken for her convenience
- ⊗ To remember names and proposed amendments

- ⊗ Notes were not used by the twp.
- ⊗ Took notes home with her
- ⊗ No one at twp. had access



- ⊗ 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**

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⊗ Address in retention schedule

⊗ Superseded Documents

⊗ Subject to discovery, drafts are "kept"



**DRAFT**

**Drafts?**

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