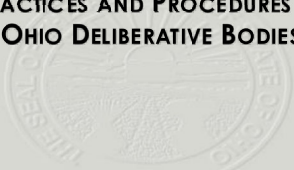


OHIO AUDITOR OF STATE
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Practices and Procedures of
Ohio Deliberative Bodies



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Robert's Rules of Order




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Henry Martyn Robert



Brigadier General, Chief of Engineers

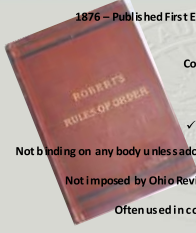


Graduated from West Point 1857



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

Codifies General Parliamentary Procedures

- ✓ Synthesizes 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 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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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

MAJORITY RULES!

• Per Robert's:

To limit or to take away rights of members

To change a decision previously made

• Silence means Consent

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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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Order of Business / Agenda

- Sequence of items to be addressed
- Adopted by body

AGENDA

April 1, 2021

- Roll call
- Approval of March 3, 2021 meeting minutes
- Repaired pothole intersection of Broad and High Streets
 - Accept bid
 - Road work materials
 - Purchase and installation of traffic light
 - Enter shared services agreement for equipment and staff

Adopted by council:

John J. Smith Robert Butler
Fredrick Jones Nancy Young
Sally Adams

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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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Rules of Ohio Public Bodies

- Board of Township Trustees determine rules (ORC 504.09)
 - Majority = Quorum
- Municipal Legislative Authority (ORC 731.44 and 705.15)
 - Judge of election and qualification of members
 - Majority = Quorum
 - Lesser number may adjourn from day to day and compel attendance of members
 - Affirmative Vote of majority to pass legislation
- Board of County Commissioners (ORC 305.08)
 - Majority = Quorum




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Rules of Ohio Public Bodies (continued)

- Municipal Procedures (ORC 731.17)
 - Read by title only unless body requires full reading
 - Read on three separate days
 - May suspend this rule by ¾ vote
 - Passing ordinance or resolutions
 - Vote by yeas and nays
 - Majority of all members
 - Other actions by majority vote
- Establish own rules (ORC 731.45)

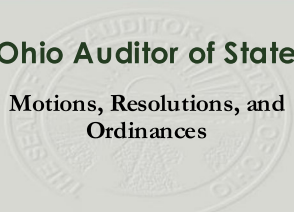


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Ohio Auditor of State

Motions, Resolutions, and Ordinances



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Motions

Formal proposal that proposes specific action

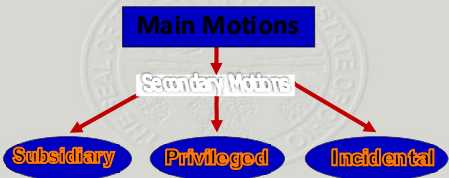
Placed to the body before debate and discussion



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Classes of Motions



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Precedence of Motions (Pronounced Pre-Seed-Ins)

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

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The image shows a presentation slide for the Ohio Auditor of State, Keith Faber. At the top, the text "OHIO AUDITOR OF STATE" is in a serif font, with "KEITH FABER" in a larger, bold serif font below it. To the right of the text is a white outline of the state of Ohio. Below this header is a horizontal line. The main title of the slide is "Main Motions" in a large, bold, black sans-serif font. Below the title is a bulleted list of four points: "Proposes specific action by the body", "Consider only one at a time", "One made and seconded must be disposed of", and "Lowest ranking in order of preference for consideration". In the background, there is a large, faint watermark of the Great Seal of the State of Ohio. At the bottom of the slide, there is a footer with the text "Efficient • Effective • Transparent" in a small, black sans-serif font.

[illegible]

The image is a presentation slide with a light blue background. At the top, there is a header area with a dark blue border. Inside this border, the text 'OHIO AUDITOR OF STATE' is written in a large, white, serif font. Below it, the name 'KEITH FABER' is written in a smaller, white, serif font. To the right of the text is a white outline of the state of Ohio. Below the header, the main content area has a light blue background. The title 'Secondary Motions' is centered in a large, bold, black serif font. Below the title is a bulleted list of three items: '• Related to and takes preference over main', '• Can be considered while main is pending', and '• Must be disposed of before acting on main'. To the right of the list is a small, square image of a silver metal trash can with its lid open. At the bottom of the slide, there is a dark blue footer bar with the words 'Efficient', 'Effective', and 'Transparent' in white, separated by small white dots.

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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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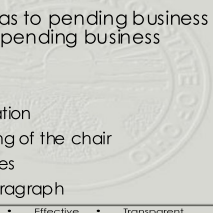
Transparent

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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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Motions That Bring a Matter Back Before the Body

- Examples:
 - Take from the table
 - Reconsider
 - Rescind
 - Discharge a committee



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Motions That Require Majority Vote


<ul style="list-style-type: none"> Main motion Adjournment Recess Lay on the table Refer to committee Amend 	<ul style="list-style-type: none"> Reconsider Rescind (with prior notice) Postpone indefinitely Postpone definitely
---	---

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Under Ohio Revised Code . . .

The Majority Rules Most of the Time




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Motions That Require 2/3 Vote

- Previous question
- Limit or extend debate
- Object to consideration of a question
- Rescind (without prior notice)
- Discharge committee (without prior notice)



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Examples Actions Requiring 2/3 Vote

- City sell real estate to county without bid (ORC 721.29)
- Disapproval of certain actions of city planning commission (ORC 713.02)
- City override mayor's veto (ORC 731.27)
- Authorize absence of member (ORC 705.13)

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Examples Actions Requiring 2/3 Vote (continued)


- Pass municipal legislation as emergency with immediate effect (ORC 731.30)
- Expel member of municipal legislative body for two months absence (ORC 731.45)
 - Requires 2/3 vote of all members
 - Requires notice and opportunity to be heard

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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

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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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Debate Follows

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



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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

- 1 To insert or add words
- 2 To strike out words
- 3 To strike out and insert words

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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


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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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Statutory References – Township Resolutions



Not exhaustive




- 505.10 Acceptance or disposal of property
- 505.1010 . . Purchase of property at auction
- 505.48 Creation of police district
- 505.871 . . . Removal of junk motor vehicles
- 505.89 Imposition of curfew
- 505.94 Control of transient vendors


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Statutory References – Township Resolutions (continued)

- 505.95 . . . Regulation of resale of tickets
- 511.18 . . . Petition to organize park district
- 511.28 . . . Submission of township park levy
- 515.08 . . . Payment of interest on lighting assessment
- 515.16 . . . Assessment for removal of overhead lines
- 519.02 . . . Zoning resolution



ZONING

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**RESOLUTIONS REVISING OR AMENDING -
ORC 502.12
LIMITED HOME RULE TOWNSHIPS**

- Contain entire resolution or affected section or division
- May amend before final passage by majority vote
- May revise, codify, and publish resolutions in book form
 - 731 process

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**RESOLUTIONS, FORM, READING
ORC 504.10
LIMITED HOME RULE TOWNSHIPS**

- Resolutions
 - Written form
 - Introduced by a member
- Form and style determined by board
- One subject only
 - Expressed in title
 - Except appropriations
 - Except codification
- Read by title only
 - Majority motion to read in full
- Two separate days
 - Waive by majority vote

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RESOLUTIONS, VOTING, EFFECTIVE DATE,
RECORDING - ORC 504.11
LIMITED HOME RULE TOWNSHIPS

- Yeas and nays vote
 - Recorded on journal
 - Majority vote
 - Effective thirty days after passage
 - Emergency-Unanimous vote
 - Imminent danger: preservation, public peace, health, safety or welfare
 - Statement of necessity
- Authenticated by fiscal officer
 - Failure not invalidate
- Immediate or designated effect
 - Question to electorate: proceed with election; revision, codification, rescission, or publication of resolutions.
- Record resolutions
 - Fiscal officer or deputy authenticate

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Municipal Resolutions

- Formal expression of opinion or intention
- Censure/Commendation
- Temporary or transitory






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Municipal Ordinances

- Law
- Permanent enactment
- Statutes



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Statutory References – Municipal Resolutions

Not exhaustive

- 703.10 . . . Resolution to take census
- 703.16 . . . Surrendering of city to village
- 709.50 . . . Removing territory from township
- 719.04 . . . Intent to appropriate property
- 727.171 . . Off-street parking assessments
- 729.02 . . . Resolution of necessary for sidewalks

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CHARTER MUNICIPALITY- ORC 701.05

- Charter Municipality
 - Alternative method of passage and publication
 - Legislation
 - Making of improvements
 - Levying of assessments
 - May utilize:
 - ORC procedures or
 - Charter procedures

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PUBLICATION OF ORDINANCES, RESOLUTIONS, OR SUMMARIES - ORC 705.16

- Ordinances and Resolutions
 - Effective after thirty days
 - Except under ORC 705.25 Mayor's veto
- Succinct summary promptly published
 - Rate set under Section 710
 - Newspaper of general circulation
 - Headline-Eighteen point type
 - Specify the nature of legislation
 - Complete text available
 - Clerk and other location council designates
 - Reviewed by legal counsel
- Complete text copy provided upon request
 - Charge reasonable cost
- Post copy of text
 - Clerk's office
 - Other places as council designates

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STYLE OF ORDINANCES
ORC 731.18

“Be it ordained by the _____ of
the legislative authority of the city or
village of _____, State of
Ohio...”

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SUBJECT AND AMENDMENT
ORC 731.19

- Single subject
 - All ordinances, resolutions, and bylaws
 - Clearly stated in title
- Amended only if entire revived or amended text
- Each by separate vote
 - Yeas and nays recorded in journal

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AUTHENTICATION AND RECORDING
ORC 731.20

- Ordinances, resolutions, and bylaws
 - Authenticated
 - Signature of presiding officer and clerk
- Succinct summary published under ORC 731.21 and 731.22
 - Effective ten days after publication
- Recorded by clerk in book provided by legislative authority

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**PUBLICATION OF SUCCINCT SUMMARY,
COPIES ON REQUEST - ORC 731.21**


- Publish succinct summary
 - All ordinances, resolutions, statements, orders, proclamations, notices and reports required by law to be published
 - Newspaper of general circulation, web site established under R.C. 125.182 or website and social media account of the municipal corporation
- Proof of publication
 - Affidavit of proprietor of newspaper
 - Filed with clerk
- Notice that complete text
 - Available from clerk
 - View at clerk's office or other locations designated by council
- Legal review
- Supply copy of text upon request
- Copy of text available at clerk's office and other locations council designates

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**PUBLICATION OF ORDINANCES IN
BOOK FORM - ORC 731.23**


- When ordinances revised, codified, rearranged, published in book form, and certified as correct by clerk and mayor
 - Such publication sufficient
- New ordinance no prior summary publication
 - Entirely new material
 - Publish under 731.21 and 731.22
- Revision with new matter
 - Publish notice of codification
 - Summary of new matter

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**ADOPTION OF TECHNICAL
ORDINANCES AND
CODES BY REFERENCE
- ORC 731.231**

- Adopt standards ordinances and codes
 - State, state department, board, or agency
 - Public or private organization/model's standard code
 - Including
 - Fire, fire hazards, and fire prevention
 - Plumbing codes
 - Electrical codes
 - Building codes
 - Refrigeration machinery codes
 - Piping codes
 - Boiler codes
 - Heating codes
 - Air conditioning codes
- Adopt by reference

Notice

- Identify code and purpose
- Complete copy with clerk or county law library or libraries
- Copies available at cost
- Summary of any amendments or deletions

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CERTIFICATION OF CLERK AS TO
PUBLICATION-ORC 731.24

- Clerk certify publication of ordinance summary
 - Immediately after publication period
 - Blank on record of ordinance
 - In which newspaper published
 - Sign
 - Prima facie evidence of compliance

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EFFECT OF NOT MAKING PUBLICATION
- ORC 731.25

- No publication or posting made under ORC 731.21 to 731.25
 - Sufficient defense to any suit or prosecution
 - Under an ordinance

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MAYOR'S VETO IN CITIES
ORC 731.27

- City ordinance or resolution
 - Before effect present to mayor for approval
 - Approve
 - Sign and return forthwith
- Not approve
 - Ten days to return with objections
 - Failure to return approved unless adjournment prevents return
 - Next meeting note objections on journal
- Line item veto as to any term of an appropriating ordinance
- Council may override veto on reconsideration
 - Two-third vote of all members elected

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ADVERTISING NOTICE OF PROPOSED CHARTER AMENDMENTS ORC 731.211

- Proposed charter amendment mailed to each elector
 - Thirty days prior to election
 - Poll or registration at last regular general election
- Publish full text
 - Once a week for two consecutive weeks
 - Newspaper of general circulation
 - Not less than fifteen days prior to election
- ORC 7.16 Abbreviated publication process permitted
 - Second abbreviated publication
 - Published in some newspaper
 - Posted without cost on ORC 125-182 web site
 - Clear summary and notice of entirety on web site
 - May post on subdivision web site
 - Name, address, telephone number, and electronic address
- SEE: Ohio Constitution, Article XVIII, Section 8; and Article XVIII, Section 9.

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THIRTY DAY EFFECTIVE/REFERENDUM PERIOD - ORC 731.29, and 731.30 MUNICIPALITIES

Exceptions

- Appropriations for current expenditures
- More than one for improvement-After first
- Street improvements on petition of owners
- Waive thirty day period by 2/3 vote (yea or nay) of all members.

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Home Rule – Township Resolutions ORC § 504.10


- Written form
- Introduced by member
- Only one subject expressed in title
 - Exceptions:
 - Appropriations
 - Codified or recodified
- Read by title only
 - Unless majority requests full reading
- Read two separate days
 - Dispense by majority vote

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Home Rule – Township Resolutions

ORC § 504.11



- Effective after thirty (30) days
- Emergency – Unanimous vote
 - Immediate effect
 - Immediate preservation
 - Public peace, health, safety or welfare
 - Statute necessity



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Recording and Maintaining Minutes

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Why?

- Why are minutes necessary?
 - The public has a right to know and understand the actions of their elected representatives.
 - Includes not just the right to know a final decision on a matter, but the ways by which those decisions were reached
 - Accurate minutes can reflect the difficult decision-making process a public body goes through
 - Can bring the public to a better understanding of why unpopular decisions are sometimes necessary.

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- Allows for greater integrity and prevents important decisions from being made behind closed doors.
- Keeping full minutes allows members of the public who are unable to attend the meetings in person to obtain complete and accurate information about the decision-making process of their government.

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How?

- Public bodies are trusted with a degree of latitude in the preparation of minutes
 - There is not one specific required method of preparing minutes
- May use:
 - Audio recording
 - Video recording
 - Word for word transcripts
 - Summaries of discussions indicating the identity of the speakers and the timing and substance of their statements




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How?


- Whatever method is used, the minutes must:
 - State sufficient facts and information to permit the public to understand and appreciate the rationale behind the decision

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Where?

Where does the requirement that a public office "take and file meeting minutes" come from?

- Villages – Rev. Code 733.27**
 - The village clerk shall attend all meetings . . . and keep a record of its proceedings and of all rules, bylaws, resolutions, and ordinances passed or adopted
- Townships – Rev. Code 507.04**
 - The township fiscal officer shall keep an accurate record of the proceedings of the board of township trustees at all of its meetings

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Where?

Where does the requirement that a public office "take and file meeting minutes" come from?

Counties – Rev. Code 305.10

- The clerk of the board of county commissioners shall keep a full written record of the proceedings of the board, and a written general index of those proceedings, entering each motion with the name of the person making it on the record.

School Boards – Rev. Code 3313.26

- The treasurer of the board of education shall record the proceedings of each meeting in a book to be provided by the board for that purpose, which shall be a public record.

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Where?

Where does the requirement that a public office "take and file meeting minutes" come from?

The Open Meetings Act – Rev. Code 121.22

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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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Minutes

• 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.



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Minutes

White v. Clinton Cty. Bd. of Comms., 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

• 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

• 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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IT'S NOT ENOUGH

Minutes

White v. Clinton Cty. Bd. of Comms., 76 Ohio St3d 416 (1994)

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

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Minutes

Insufficient and Inaccurate

X

State ex rel. Long v. Cardington Village Council, 92 Ohio St3d 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

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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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

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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)

Meeting on open meetings is closed

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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

JUST SAYIN'

DO NOT WRITE IN THESE SPACES

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Fiscal Officer's Notes



State ex rel. Campbell 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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Drafts?



- Address in retention schedule
- Superseded Drafts
 - Subject to disclosure while they are "kept"

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32