

FAQ Review: Meeting Minutes

by Ed Sluys

The following are responses to some frequently asked questions. The answers are not intended as legal advice and are not a substitute for consulting with your legal counsel.

What needs to be included in meeting minutes?

Section 610.020 RSMo requires that minutes of open and closed meetings include any votes taken, including: the specific vote of each member for roll call votes, the date, time, place, names of members present and members absent. Local ordinances or adopted rules of procedure may contain additional requirements for the minutes. Note: for fourth-class cities the minutes also need to reflect a roll call vote taken if two or more members of the board of aldermen request that a roll call vote be taken. (Section 79.150 RSMo.) The minutes should also include the topics discussed, as well as any actions taken.

Do minutes need to be approved?

Section 610.020 RSMo does not require the approval of minutes. However, by local ordinance or adopted rules/practices many (if not most) communities approve the minutes. Note: closed meeting minutes should not be made public during the approval process, unless they have become open records themselves.

Who is charged with preparing minutes?

In third- and fourth-class cities it is the city clerk, by statute, who is required to maintain a journal and, therefore, the minutes of the proceedings (Sections 77.410 and 79.320 RSMo, respectively). By ordinance and/or charter, most (if not all) other cities, would also charge the clerk with preparing the minutes.

How may minutes be amended?

As most (if not all) legislative bodies approve the minutes by motion, an amendment to the main motion can be approved or, if there is no objection, amendment can be by consensus of the legislative body. Most cities will allow for minor edits by the clerk, such as correcting typographical errors, without any formal action.

If a member of the legislative body requests draft minutes be amended prior to the minutes being presented to the board or council, how should the clerk handle this?

If the clerk agrees with the suggested

edits, e.g. it corrects a mistake, then the clerk could make the changes and resend the packet or present it at the meeting. If the clerk does not agree with the edits, he/she can suggest that the issue be discussed at the meeting where the minutes are to be considered.

If minutes are approved by the board/council can they be amended later?

Yes, but it would be good practice to include an explanation (such as, an error previously overlooked).

What can and cannot be amended?

Anything in the minutes can be amended, provided they accurately reflect what occurred at the meeting to which they pertain.

Can a vote be rescinded?

The minutes cannot be amended in any manner that alters what happened at the meeting to which they pertain; i.e. a vote cannot be rescinded from a prior meeting by amending the minutes. There are various ways rescission can be achieved, such as a new ordinance that repeals the prior ordinance after following applicable procedures.

Are minutes available to the public?

Open meeting minutes are available to the public. Closed meeting minutes are generally not available to the public unless, under the provisions of the Missouri Sunshine Law, they (or portions thereof) are to be made available upon the occurrence of an event.

When do minutes need to be completed?

Good practice is to have the minutes approved for the prior meeting at the subsequent meeting. Local ordinances

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or practices may address the question of timing.

What is the difference between draft and approved minutes?

Draft minutes are not an official record of the proceedings until approved as required by local requirements.

When are closed meeting minutes released?

Closed meeting minutes are never “released,” in the sense of being proactively provided to the public. However, in certain circumstances they (or portions thereof) are available to the public upon the occurrence of an event; e.g. 72 hours after a personnel decision has been made, or upon the closing of a real estate transaction.

How are closed meeting minutes approved?

This will depend upon the community. One approach is to provide them to the members of the legislative body in a form that is not included in the publicly available materials and have the board/council vote to approve them at the same time as the open minutes. Other cities approve them at the next closed meeting.

Does approval of closed minutes require a closed meeting?

No.

May councilmembers who miss a meeting view closed meeting minutes?

Yes, unless they missed the meeting (or part thereof) due to a conflict of interest.

Must the city clerk be allowed to attend closed meetings to take the minutes?

No, it is for the legislative body to decide who may attend the closed session. It is not unusual for the city manager or city attorney to take the minutes in a closed session.

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How does a city clerk prepare or attest to the minutes if the clerk was not present for the closed meeting?

The clerk is attesting to the minutes being the record of the city, and can rely upon those that were present to convey what occurred in the closed session. 🍃

Ed Sluys is a principal in the law firm of Curtis, Heinz, Garrett & O'Keefe, P.C., where he concentrates his practice in the areas of municipal, public election, public utilities, commercial litigation and appellate law. He serves as the city attorney and prosecuting attorney for a number of communities in the greater St. Louis County metropolitan area.