

# Meeting Minutes 101

New Hampshire Municipal Association, *New Hampshire Town and City*, June 2007

Boards often wrestle with taking meeting minutes—worrying that too much information will get them in trouble if an issue goes to court. This fear is balanced against the desire of board members to make sure their minutes are informative and helpful to citizens and to the board itself. Does the law require that meeting minutes contain certain information? Is it better to be brief and vague when preparing the minutes? Should meetings be tape recorded so that greater detail can be put into the minutes? If the meeting is tape recorded, does that mean the tape is available to members of the public?

Meeting minutes need not be a dreaded part of service as a selectman, land use board member or any other public official that is required by law to take meeting minutes of their proceedings. Keeping in mind the purpose of meeting minutes, which is to promote openness in the conduct of public business and to ensure the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people, will help as you wrestle with producing meeting minutes that comply with the law.

## **Q. Selectmen, planning boards and boards of adjustment are required to take minutes. Are there other boards that must take meeting minutes?**

**A.** All "public bodies" are required to have open meetings, and thus must take minutes of their meetings. Public bodies include all committees, boards, subcommittees, agencies, etc. that perform a governmental function in the community. This includes all informal advisory committees as well. A committee formed by the selectmen to "study and advise the selectmen on whether or not an addition is needed for the town hall" is a "public body" and must meet in public and take minutes. Other examples of public bodies include recreation committees, budget committees, conservation commissions, trustees of trust funds and library trustees. RSA 91-A:1-a.

## **Q. When must the minutes be ready for public inspection?**

**A.** Minutes must be made available for public inspection within five business days after the meeting\*, except in the case of nonpublic session meeting minutes which must be made available within 72 hours, unless the body has voted to seal the minutes of the nonpublic session.

## **Q. Our board meets only once a month—the minutes won't be approved within five days business days after the meeting\* so how can they be released to the public?**

**A.** There is no legal requirement to formally *approve* minutes, but many boards do approve their minutes. A policy of formally approving minutes does not mean the board may wait until the next meeting, when the minutes will be formally *approved*, to release the minutes. The minutes, in draft form if necessary, must be made available within five days after the meeting\*. The board may address this issue by placing "draft" or "not yet approved" on the minutes to alert the public that the minutes being released are not yet approved. Formal approval by the board cannot delay the release of the minutes if the delay will go beyond five business days\* (or 72 hours for nonpublic minutes that have not been sealed).

## **Q. What should go into the meeting minutes?**

**A.** At a minimum, minutes must include the names of board members present, other people participating (not necessarily all members of the public present), a brief summary of the subject matter discussed, and any final decisions reached or action taken, which includes the time the meeting was called to order and the time the meeting was adjourned. To this list you may want to add the name of the person taking the minutes and the name of the person chairing the meeting. The name of the board and date of the meeting should always be included.

When considering the “brief summary of the subject matter discussed,” the board may want to recall that the purpose of meeting minutes is to promote openness in government and to inform citizens about what their government is doing. Citizens should be able to read minutes of a meeting and get a good idea about what happened. This does not mean, however, that stenographic or verbatim minutes must be taken. Most boards do not have staff with specialized stenographic skills, nor is there any legal requirement to prepare minutes in this manner. Minutes should be fair and objective. They should not include insulting remarks even if such remarks were made during the meeting. The focus of the minutes should be to record the important and relevant things that occurred at the meeting, not bickering or insults.

Negative sentiments expressed by board members or members of the public need not be avoided entirely, if the comments are relevant; it is the inclusion of the inflammatory words that should be avoided. For example, suppose a citizen comes in to complain about his neighbor and wants the selectmen to take enforcement action to make the neighbor clean up his yard. During 30 minutes of high octave complaint before the selectmen, this citizen uses plenty of choice words to describe his neighbor. The meeting minutes need not include specific derogatory statements made by the citizen, but could instead state: *“Mr. [Citizen] met with the board to discuss his concerns that his neighbor, John Doe, is in violation of several town ordinances in that Mr. Doe is storing junk on his property. Further, Mr. Citizen informed the board that he has serious doubts that Mr. Doe will follow through with promises to clean up the property as he has not followed through with promises made in the past.”* Anyone reading the minutes will get the idea that Mr. Citizen is not happy and that he wants the selectmen to take action against Mr. Doe for violations of zoning ordinances.

Minutes not only serve the important purpose of informing citizens about what their government is doing, it also serves as a tool for boards to memorialize their work. Minutes can be helpful when memories fade, or when new board members join the board, as a way to look back in time and understand how the board dealt with an issue.

**Q. Is there a difference in content between regular meeting minutes, public hearing meeting minutes, and nonpublic session meeting minutes?**

**A.** No, all meeting minutes should contain a brief summary of the subject matters discussed and any decisions or actions taken by the board. The differences in the various types of meetings are more about procedures, than the content of the minutes.

**Q. Are nonpublic session meeting minutes automatically sealed by virtue of the fact that the meeting was not open to the public?**

**A.** No. In fact, meeting minutes of a nonpublic session must be made available to the public sooner than regular meeting minutes: 72 hours for nonpublic minutes versus five business days\* for all other meeting minutes. However, if two-thirds of the members present, in a recorded vote, decide to seal the minutes because the reasons justifying the need for nonpublic session remain—such as the concern for injury to someone’s reputation (other than a board member), or public release of the minutes would make the action taken ineffectual, or the information pertains to emergency plans to thwart terrorism.

Minutes that the board has voted to seal should be placed in a secure place within the office, and a notation attached that they are sealed, so that they are not inadvertently released to the public. The board may want to institute a policy of reviewing sealed meeting minutes on a periodic basis to determine if any should be released because the reasons for the nonpublic session no longer exist. Once the reason to seal the minutes no longer exists, the minutes should be released.

**Q. What can a board do to ensure accurate minutes?**

**A.** Meetings that are conducted in an organized fashion will likely result in meeting minutes that are organized and complete. Rules of procedure that require announcing the name of each case or issue as it is taken up by the board, requiring those speaking on the matter to state their name, requiring board members to clearly state the motions they are putting forth, and generally making sure the recording secretary has the time to keep up with often fast paced meetings will help to ensure that the best possible meeting minutes are recorded.

**Q. Should the board tape-record all meetings? If so, what happens to the tapes?**

**A.** Whether to tape record (or video record) is a decision for each board to make. Allowing the recording secretary to tape the meeting may assist him or her in preparing minutes that are more accurate and complete. However, if the board decides to tape record the meeting, the tape is available for inspection, and copying, by the public just as the meeting minutes are. The board must retain the tapes at least until the meeting minutes are approved, at which time the tape may be destroyed. If the board has a policy of keeping the tapes after the minutes are approved, then the tapes remain available to the public as long as they exist. Note that while the board may decide not to tape record its own meetings, members of the public must be allowed to tape record or video record the meetings.

**Q. Are the notes taken by the recording secretary, and used to prepare the minutes, available for public inspection along with the minutes?**

**A.** Yes. After completion of the meeting, every citizen, during regular business hours, has the right to inspect all notes, materials, tapes or other sources used for compiling the minutes of the meeting, except as otherwise prohibited by statute or RSA 91-A:5. This does not mean that the recording secretary must immediately turn over the notepad that contains the notes taken during the meeting if it is being used to prepare the minutes at the time of the request. If the notes are unavailable for immediate inspection, the public body shall, within five business days of the request, make the record available, or deny the request in writing stating the reason for denial. Once the minutes are prepared, the notes may be disposed of. However, notes that are retained by the board continue to be subject to public inspection.

**Q. If a citizen submits a prepared statement to the board and demands that it be included as part of the minutes, must it be included?**

**A.** No. The board prepares their minutes and cannot be forced to include statements or documents presented by members of the public.

**Q. How long must minutes be kept?**

**A.** Like other important town records, meeting minutes must be kept permanently.