

TITLE II

MEETINGS, AGENDAS AND MINUTES

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CHAPTER 2.02

MEETINGS

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2.02.010 Parliamentary Procedure. In 1876, General Henry N. Robert developed a manual of parliamentary procedure, which he entitled Robert's Rules of Order. This manual was based on the rules of the United States House of Representatives, but was designed for use by ordinary societies. The manual was published as Robert's Rules of Order in 1876 with the full title of Pocket Manual of Rules of Order for Deliberative Assemblies. Between 1912 and 1915, the General revised his Rules of Order to incorporate all comments and letters received since the first publication.

These rules are generally followed now by a wide spectrum of congregations such as government agencies and private corporations and are also used in much less formal meetings such as clubs and committees. Henry M. Robert stated in the first manual: "While it is important to every person in a free country to know something of parliamentary law, this knowledge should be used only to help, not to hinder business. One who is constantly raising points of order and insisting upon a strict observance of every rule in a peaceable assembly in which most of the members are unfamiliar with these rules and customs, makes himself a nuisance, hinders business and prejudices people against parliamentary law. Such a person either does not understand its real purpose or else willfully misuses his knowledge." In other words, these rules are meant to serve as a guide for the formalized meeting process -- not to make the process more difficult.

2.02.020 Clerk of the Council. The Oregon City Recorder is customarily considered the "Clerk of the Council" and as such is expected to attend all City Council meetings. The Deputy Recorder acts in the absence of the Recorder. If there is no deputy, another staff member is usually appointed to act as Recorder pro tempore. Duties most commonly performed by Recorders during Council meetings are discussed in this Chapter. The

scope of duties may vary from city to city, and the Recorder as a matter of local practice may perform additional duties.

2.02.030 Preparation of City Council Chamber. Preparation of the City Council Chamber should be done by the Recorder or at his/her direction. Sufficient time should be allowed to ensure that the Chamber is fully prepared prior to commencement of the City Council meeting. Some Recorders utilize a checklist for this procedure, which might contain the following items:

- Verify City Council quorum and minister for invocation (if part of your proceedings);
- Make sure name plates are at correct places and the gavel and sounding block are at Mayor's place;
- Make sure pens or sharpened pencils, water pitchers and glasses are at Council places;
- Check microphones in the Chamber to make sure each are in working order;
- Set up public address system and ensure it is in working order, as well as auxiliary speakers if overflow crowd is expected;
- Set up and test recording system;
- Assure that there are ample copies of the agenda available for the public, and provide an agenda packet for public review;
- Check position of the flags (American flag to the right of the Mayor if Mayor is raised above the level of the audience, and to the right of the audience if Mayor is on same level). If other flags are displayed they should be placed to the left of the American flag in the order of state, county, city. (As you face the dais, the flags would be placed from left to right)
- Check Chamber calendar or individual calendars;
- Assemble your meeting materials and check supply of speaker cards and pencils (if used);
- Place agenda material on the table or area provided for the press (unless previously provided to them); and
- Make sure the municipal code is at City Attorney's place, if applicable;

On occasions when the City Council meeting is held at a location other than the Council Chamber, the Recorder should supervise arrangements and provide the same equipment and materials as if the meeting were to be held in the Council Chamber.

The same basic "set up" should be followed even in the smaller cities that have no public address system or that have very few citizens who attend the meetings. Since the Council and Mayor represent the individual city, it is the duty of the Recorder to assist in every way to enhance the public image.

2.02.040 Assistance at Meetings. In many cities a stenographer, or the Deputy Recorder accompanies the Recorder to Council meetings to record the discussions and actions by whatever means is provided by the individual city. In other cities, the Recorder takes the notes. The Recorder may find it helpful to take background material and/or files on agenda items to the meeting, in the event the Council makes reference to previous action or needs more information on an item.

If the Deputy accompanies the Recorder to the Council meeting, it is helpful for that person to sit close to the Recorder in case the two need to confer during the meeting, or in the event the Recorder needs to send for records or have copies prepared for an item presented to the Council from the public.

2.02.050 Conduct of Meeting. The state statutes authorize the Council to establish rules for the conduct of meetings. This includes authority to utilize agendas, limit debate and eject unruly persons. It is strongly recommended that all cities adopt Council Rules of Procedure by ordinance or resolution. Samples can be obtained from IIMC or other Oregon cities. An excellent resource for researching and developing such rules is a reference manual developed by the Oregon Attorney General's Office called the Public Records and Meetings Manual. The "Meetings" section of this manual (7.04.050) will answer almost any question you could have on the conduct of Council meetings. (See Public Meetings Law Appendix C regarding Parliamentary Procedure, Quorums and Voting" at the end of this section).

2.02.060 City Recorder's Role. During the course of a City Council meeting, the Recorder may be called upon to perform some or all of the following tasks:

- Take roll call and handle City Council correspondence;
- Read titles of resolutions and ordinances and repeat motions upon request;
- Call roll for roll call votes and summarize votes for audience (if voting board is used);
- Open bids when necessary (usually this is done at a separate time and place, but in many small cities, bids are opened as an agenda item);
- Note when an individual City Councilor leaves or returns to the meeting (for the record);
- Record names and addresses of members of the public who speak at the meeting (some cities have a sign-in sheet at the podium and/or this information can be obtained from the speaker cards, if used);
- Maintain the future schedule of public hearings or presentations before the Council;
- Present reports to Council;
- Swear in those wishing to testify during a quasi-judicial hearing; and
- Adjourn the meeting if all Councilors are absent.

2.02.070 Operation of Recording Equipment. Most cities tape record their Council meetings. The Recorder or Deputy is typically responsible for this recording. The individual assigned to run the recording equipment should be thoroughly instructed on its operation and the placement of microphones, if no permanent public address system exists in the Council Chamber.

When tape recorders are used, a footage indicator is usually available. This is an easy way for the Recorder to pinpoint where on the tape an item was discussed, such as a public hearing or a controversial matter, which may need to be reviewed. It is suggested that the footage be noted at the beginning of an item. This notation could either be in your written notes or along side the item on the agenda.

Since the purpose behind the use of recording equipment is to ensure accuracy, it is important that a procedure be established by the City Council for participants at the meetings to identify themselves before addressing the Council. Many Recorders have instituted a sign-in sheet or speaker cards to assist in the spelling of names. Regardless of the type of system used, members of the audience wishing to address the Council should be required to state their name and address for the record prior to submitting comments to Council.

2.02.080 Methods of Recording Vote. Although other voting methods may be acceptable, a common practice in the voting on motions is for the Mayor to call for "all those in favor?"; then call for "those opposed?"; and declare the motion carried or rejected. Usually the words "ayes" for those in favor and "nays" for those opposed are used. When a Councilor is silent, he or she is recorded as abstaining. Some City Councils require a vote granting permission for a Councilor to abstain. Abstention from voting should be covered in your Council Rules of Procedure. Where a difference of opinion is sensed or the majority vote is not clear, and a Councilor requests a roll call vote, the Mayor will call for a roll call vote by the Recorder.

A roll call vote is also generally necessary for the adoption of an ordinance, because of the need to ensure that a majority of affirmative votes have been cast.

Some Council Chambers are equipped with electronic voting devices through which a Councilor records his/her vote by pressing a button at his/her place. A tally board visible to the Recorder indicates when all votes have been cast, and a flip of a button makes the results visible to all. The Recorder then declares the results of the vote. This method avoids the complaint that one Councilor always votes first or last.

2.02.090 Council Meetings Generally. The "Open Public Meetings Law" must be observed at all Council meetings. A Council meeting is held any time a majority or a quorum of the members are gathered for the purpose of reviewing and/or making decisions pertaining to city business. Generally, a quorum is defined as a majority of the Councilors (for example: in a five member Council, three members constitute a quorum). A quorum is required for the transaction of city business.

2.02.100 Regular Meetings. Regular meetings of the Council are held at least once a month at a designated place, time and date (for example: second Monday of each month) typically set by ordinance or resolution. If a regular meeting date falls on a holiday, the

meeting is usually held on the next business day. In the case of an emergency created by a disaster of any kind, which renders the designated meeting place unsafe, the meetings may be held for the duration of the emergency at a place designated by the Mayor.

2.02.110 Special Meetings. The Mayor or a majority of the Council may call special meetings to order with notice being delivered personally, by fax or by mail to the Council and media at least twenty-four hours prior to the special meeting. The notice of the meeting must specify the date, time and place of the meeting and the business to be transacted; final action may only be taken on matters specified in the notice.

2.02.120 Emergency Meetings. An "emergency meeting" is a special meeting called on less than 24 hours' notice. An "actual emergency" must exist, and the minutes must describe the emergency justifying less than 24 hours' notice. The law requires that "such notice as is appropriate to the circumstances" be given for emergency meetings. The Recorder must attempt to contact the media and other interested persons to inform them of the meeting.

2.02.130 Study Sessions. Study sessions, often called "work sessions" or "work study sessions" are sometimes held to allow the Council an opportunity to review and discuss a particular matter in detail, without the intent of taking action on the matter. They can also be scheduled immediately before or after a regular Council meeting, or on any other day and time. These sessions are usually informal, though they must be open to the public, and some Council's prefer to hold the sessions in a place other than the formal setting of the Council Chamber.

2.02.140 Closed or Executive Sessions. ORS 192.660(2) specifies certain topics for which the Council is permitted to meet privately in executive sessions. The allowable subjects for executive sessions are discussed in Chapter 2.080, the Open Public Meetings Law.

Before convening in executive session, the Mayor must publicly announce the general purpose of the session and the estimated length of time the Council will be meeting in closed session. The time of the executive session may be extended by subsequent announcement of the Mayor.

Council has the option of requesting the presence of specific staff members, the City Manager and the City Attorney during executive session. The Recorder typically attends all executive sessions unless specifically advised by the City Manager, Mayor or Council that his/her presence will not be needed. If minutes are kept of executive sessions, they are exempt from public disclosure.

2.02.150 Recesses. Recesses are generally called by the Mayor or sometimes at the request of a Councilor. Usually the Mayor will state the expected period of time of the recess. Recesses are not a device a Council may employ to avoid the Open Public Meetings Law; therefore, a Council should definitely avoid having a quorum session in a back room or any appearance of conducting public business during the recess. The Recorder should note for the record the time of the recess, the time the meeting reconvened, and the City Councilors present.

2.02.160 Participation by the Public. City Council meetings are primarily structured to permit its members to arrive at the decisions necessary to govern the city. In some cities this may preclude public participation except at required public hearings.

Where participation by the public is a matter of requirement under a specific code, it is important to ensure that all who wishes to participate have been recognized and heard. A convenient method is the use of speaker's cards. Generally in public hearing cases, the Mayor will ask that those in favor speak first, followed by those in opposition, and then an opportunity for rebuttal by the applicant (if applicable).

The extent to which members of the public are invited to participate regarding other agenda items is a matter of local custom. Some cities simply require that a person approach the microphone in order to be recognized.

Most cities have a specific section of the agenda set aside for "Public Participation/Comments." In some cities this section is towards the end of the agenda, after all listed matters have been handled. Other cities place this section towards the beginning of the agenda to prevent persons from having to sit through what may be a very lengthy meeting. Again, this is a matter of individual Council preference. Many Council's prescribe the order in which items will be listed on the agenda in the "Council Rules of Procedure."

Some cities have found it necessary to impose strict rules on public participation. In other cities, the Mayor will simply spell out the policy on public comments at each meeting. Many cities include their policy on public participation in their "Council Rules of Procedure."

2.02.170 Disturbances at City Council Meetings. From time to time, disruptions may occur at Council meetings. Preplanning for such an eventuality is highly recommended.

Most public meeting rooms have posted in a conspicuous place a sign stating the maximum number of people allowed to assemble therein. You may wish to request a representative from the fire department be present at Council meetings to enforce this limitation when large crowds are expected.

If at all possible, the Council should have a separate exit to use in the event of a disturbance, so they will not have to exit through the audience. Many cities immediately recess the meeting when decorum is lost.

Some cities routinely have a police officer present during all Council meetings. Other cities have an alarm system (usually controlled by the Mayor, Recorder or City Manager), which alerts the police department that assistance is needed.

In planning for a possible disturbance, the local situation should be kept in mind. In certain communities or situations, fire prevention personnel or plain clothed police personnel may be preferable to using uniformed police officers.

The Open Public Meetings Law permits the clearing of the Council Chamber in the event any meeting is willfully disturbed. Again, the Council Rules of Procedure could include an established plan for handling disturbances at Council meetings.

The function of the Recorder in such situations is merely to remain cool and alert, be helpful to the Council under trying circumstances, and handle the recording equipment, retrieval of needed documents, etc.

2.02.180 Adjournment and Closing City Council Chambers. Adjournment of the Council meeting is customarily by motion of the Council, although many cities have adopted a "unanimous consent" format and the Mayor simply declares the meeting adjourned. The Recorder should note the time of adjournment for the record.

If at any time during the course of the meeting a City Councilor departs from the Chamber and leaves the Council without a quorum, it is the duty of the Recorder to call this fact to the attention of the Mayor.

The Recorder has the responsibility of adjourning a meeting where no Councilor is present.

Closing the Council Chambers may be the responsibility of the Recorder, whether or not custodial assistance is provided. A possible checklist is shown as follows:

- Turn off recording equipment and sound system, and remove the recording tapes;
- Store microphones, name plates, gavel and sounding block, pads, pencils, etc., in proper places;
- Retrieve any original documents used by the Council during the meeting and destroy any confidential documents left in the Chambers; and
- Secure building (lights, lock doors, etc.).

2.02.190 Council Meeting Follow-up. In many cities, the Recorder produces a synopsis of Council actions the morning after a Council meeting (if held in the evening), or immediately following the meeting (if held during the daytime). The purpose is to disseminate needed information to city staff in a timely manner, since formal minutes will not be finalized until a future Council meeting. Some Recorders broaden this distribution to include the press. This process can reduce the number of individual inquiries about the meeting and alert other departments to actions that will need to be taken which affect their operation.

**EXCERPT FROM ATTORNEY GENERAL'S PUBLIC MEETINGS AND
RECORD LAW**

**PUBLIC MEETINGS LAW APPENDIX C
PARLIAMENTARY PROCEDURE, QUORUMS AND VOTING**

A. PARLIAMENTARY PROCEDURE GENERALLY

Rules of parliamentary procedure provide the means for orderly and expeditious disposition of matters before a board, commission or council. They govern the way members of a multi-member body interact with each other. As a general proposition, those procedural guides only affect substantive policy development or third-party interests indirectly and do not have the force of law. They may be waived, modified or disregarded without affecting the validity of the agency's decisions.

Public bodies, therefore, have great flexibility to determine their own rules of parliamentary procedure without fear that irregularities or errors will lead to judicial invalidation of their actions. When making or applying rules of parliamentary procedure, a board, commission or council is limited only by (i) any constitutional or statutory requirements, (ii) rights of third parties which may be affected, and (iii) judicial interpretations of constitutional and statutory rights.

Parliamentary procedure for a multi-member body guides all agency decision-making processes, including deliberations following a contested case or rulemaking hearing and deliberation leading to an advisory recommendation on a matter or public policy to another public body.

To facilitate decision-making, a simplified and flexible approach to parliamentary procedure is helpful. The author of one text on parliamentary procedures believes that "stressing a more straightforward and open procedure for meetings eliminates the parliamentary impasses that appear to follow when too much attention is given to parliamentary intrigue and manipulation."¹ He has, for example, eliminated the "seconding" of motions because it is "largely a waste of time."² This warning against blind adherence to parliamentary rules is echoed by the author of another text who admonishes that "[t]echnical rules should be used only to the extent necessary to observe the law, to expedite business, to avoid confusion, and to protect the rights of members."³

H. Robert, *Roberts Rules of Order Newly Revised* is perhaps the most commonly known and used parliamentary authority. However, A. Sturgis, *Sturgis Standard Code of Parliamentary Procedure* (2d ed 1966) is more easily read and less technical. The Oregon House and Senate rely on P. Mason, *Manual of Legislative Procedure* (1989). Any of these texts should be adopted by reference to guide board, commission or council deliberations. A simple motion such as the following is sufficient for this purpose:

Except as otherwise provided by law and except where the (insert text of board or commission) directs or acts to the contrary, (insert title and edition of a parliamentary reference book) shall govern parliamentary processes of this public body.

Alternately, a board, commission or council might adapt some of the rules to suit its particular needs and convenience, and adopt a standard text as a "back-up" resource.

¹R. Keeseey, *Modern Parliamentary Procedure XV-XVI* (Preface) (1994)

²*Id.* at 21

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CHAPTER 2.04

AGENDAS

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2.04.010 Philosophy--Purpose. The agenda may be viewed as a program invitation, to be prepared concisely, accurately, in a logical order and generally to present to its reader a clear picture of what business will be considered. City Recorders are almost always responsible for providing this service to citizens, so care should be taken to produce a professional document that will aid the Mayor and Council to conduct an orderly and effective meeting.

The purpose of an agenda is to provide a framework within which a meeting can be conducted. Each city should decide on the agenda format, which best suits, its needs. The suggested agenda format exhibited in Section 2.04.030 of this Chapter includes items, which are likely to come before the Council; however, the order in which they are listed must be at the discretion of the individual Council. Many Council's adopt their agenda format as part of their "Council Rules of Procedure."

2.04.020 Order of Business. The order of business to be listed on the agenda may be prescribed by ordinance, resolution, rules, or simply by custom and practice. Such order can be most significant in determining the flow of business.

2.04.030 Content of Agenda. The following is a non-comprehensive list of headings/items, which are included in many agendas. Many are self-explanatory, while others will be described in more detail.

Headings or groups of headings can be consolidated and modified to meet the specific needs and ambience of the particular jurisdiction. The terminology used should be that which best identifies with a particular organization.

- Type of meeting (regular, special, etc.) and the name of the governing body (City Council, City Commission, etc.);
- Date, time and place (address, room number or name) of meeting;
- Invocation (if any); Pledge of Allegiance (if done); call to order and roll call;
- Mayor's report; then Councilor reports;

- Ceremonial matters (presentations, awards, proclamations, introductions);
- Public comment/participation (note any time limitation to be observed by the speaker) [some Councils offer this at the end of the meeting, just prior to adjournment];
- Consent agenda (routine items requiring Council action, such as: approval of prior minutes and vouchers; setting public hearing dates; approval of contracts and award of bids [if budgeted] and confirmation of previously discussed issues) and include a procedure to handle items removed from the Consent Agenda;
- Public hearings (legally advertised and set for a specific time);
- Resolutions; then ordinances;
- City Manager reports/recommendations from officers and departments (policy or controversial business matters -- may be classified by sub-headings, such as: Attorney, Recorder, Manager);
- Good of the order (request for new items to be discussed at a future meeting, announcements, informational matters, etc.);
- Executive session on subjects authorized by ORS 192.660(2);

In 2004, the Permissible Purposes for Executive Sessions are:

- 192.660 (2) (a) - Employment of public officers, employees and agents, if the body has satisfied certain prerequisites.
- 192.660 (2) (b) - Discipline of public officers and employees (unless affected person requests to have an open hearing).
- 192.660 (2) (c) - To consider matters pertaining to medical staff of a public hospital.
- 192.660 (2) (d) - Labor negotiations. (News media can be excluded in this instance.)
- 192.660 (2) (e) - Real property transaction negotiations.
- 192.660 (2) (f) - Exempt public records – to consider records that are “exempt by law from public inspection.” These records are specifically identified in the Oregon Revised Statutes.
- 192-660 (2) (g) - Trade negotiations – involving matters of trade or commerce in which the governing body is competing with other governing bodies.
- 192.660 (2) (h) - Legal counsel – for consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.
- 192.660 (2) (i) - To review and evaluate, pursuant to standards, criteria, and policy directives adopted by the governing body, the employment-related performance of the chief executive officer, a public officer, employee or staff member unless the affected person requests an open hearing. The standards, criteria and policy directives to be used in evaluating chief executive officers shall be adopted by the governing body in meetings open to the public in which there has been an opportunity for public comment.

- 192.660 (2) (j) - Public investments – to carry on negotiations under ORS Chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments.
- 192.660 (2) (k)- Relates to health professional regulatory board.
- 192.660 (2) (l)- Relates to State Landscape Architect Board.
- 192.660 (2) (m)- Relates to the review and approval of programs relating to security.

- Adjournment.

Agendas may also include

- A statement that packets are available on the city’s website.
- If meetings are taped for cablecast, the rebroadcast times should be noted.
- Name and phone number of the City Recorder/Clerk.
- Information that hearing assisted devices is available.

2.04.040 Explanation of Headings.

- **Public Comment/Participation:** This is an established and identified time on the agenda when members of the public may address the Council on items NOT on the agenda. It is recommended that the "Council Rules of Procedure" contain a policy statement as to the manner and length of time an individual is permitted to address the Council. It is appropriate for the Recorder to note this time limitation on the public agenda.
- **Consent Agenda/Calendar:** A consent agenda/calendar contains routine items which are non-controversial in nature (for example: approval of prior meeting minutes) and do not require further discussion. These items should be reviewed in advance by management before the agenda is finalized and determined to be non-controversial and routine, requiring no discussion due to their very "housekeeping" nature. All such items are listed together under the title of "consent agenda." It is appropriate to add an explanatory note to the public that consent agenda items are considered routine and may be approved by a single motion.

2.04.050 Agenda Preparation Suggestions. The following are suggestions for formatting and preparing agendas:

- Use specially designed agenda forms or city letterhead;
- Center and bold the meeting date, time, and place;
- Capitalize and underline major headings;
- Use capital letters to designate major sub-headings and numbers for subs under those sub-heads (if more subs are required, use lower case letters);
- Single space your primary text, using double space between subjects;

- Be consistent when using capitalization of titles or proper names of organizations, districts, or companies;
- Avoid acronyms or abbreviations not generally known to the public;
- Attempt to be politically sensitive as to "title" given to each agenda item and to the order or placement of items on the agenda;
- Be realistic when scheduling time-specific items so that sufficient time is given for deliberation and concluding action;
- Prepare a draft agenda for appropriate managers and/or elected officials to review;
- Be receptive to changes in agenda when revisions may expedite the conduct of business;
- Make sure Council has been provided the information they need to make an informed decision on the items on the agenda;
- When wording agenda item headings, use objective, fact-based terms;
- Due to court cases in some states, some municipalities have a statement on the agenda indicating that the Council may act any subject placed on the agenda, regardless of how the matter is stated on the agenda, on. This insures items labeled "Consideration of ..." or "Discussion regarding ..." may be legally approved at the meeting. In addition, the Council may legally add and act on items not appearing on the agenda at a regular meeting. We would recommend a policy on this be included in your Council Rules of Procedure.

2.04.060 Agenda Packets. Agenda packets containing copies of all agenda items are typically distributed to the Mayor, Council, City Manager, City Attorney and all Department Heads. Most cities also distribute packets to the press so they will have factual details from which they can write their news articles. Most cities have a packet available for review by the public prior to the meeting, and at the meeting itself. The agenda sheet by itself is usually sent out on a wider distribution level and there should be a supply available at the meeting for members of the audience.

2.04.070 Organization of Packets. In most cities, the Recorder prepares the agenda packet for all Council meetings. This should be done a sufficient number of days prior to the Council meeting to allow for duplication and distribution of agenda packets to Councilors and staff. The Recorder should establish a definite deadline for submittal of agenda items. An example would be if packets are typically distributed on Fridays, the deadline could be the preceding Wednesday at noon. This will allow time for review, possible rewrites, and assembly of packets for timely distribution. The established deadline should be strictly adhered to except in cases of extreme emergency.

In cities that have a City Manager or Administrator, the Recorder may meet with the Manager and or other staff members prior to finalizing the agenda. In non-manager cities, the Recorder on the final agenda may consult the Mayor or various department heads. The Recorder generally does not make changes to the agenda after such a meeting unless the other officials involved are consulted or notified.

Some Recorders have their City Managers or Administrators "sign off" or "initial" agenda sheets and each staff report or memorandum to be included in the Council packet.

The City Attorney may also be asked to review and approve contracts, ordinances, resolutions and land use actions prior to Council consideration.

This is not intended to dictate to the Council, but only to assist in expediting the meeting. It indicates to Council that staff has researched an agenda item, will be able to respond to questions on an item, and in many cases, will have a recommendation for Council.

2.04.080 Duplication. Upon approval of the agenda in final form, sufficient copies are reproduced for distribution with the packets and for use by citizens attending the meeting. The Recorder decides the number of agendas to be run. If it is anticipated that the audience will be larger than normal, extra copies of the agenda should be made. It is also advisable to mail agendas and staff reports to project proponents or interested parties of record on particular agenda items. We recommend that cities adopt some type of policy on furnishing copies of agenda staff reports to members of the public who may in some way be affected by a matter to be considered by Council. Agendas and council packets may also be posted on the city's website.

2.04.090 Distribution of Packets. Agenda packets should be distributed to the Mayor, Councilors, City Manager, City Attorney and department heads a sufficient number of days prior to the meeting to allow for review. The agenda itself should not be distributed to persons on the "ongoing distribution list" until the agenda packets have been received by the Mayor and Councilors. This is not only appropriate -- it is a matter of courtesy, as it could be embarrassing for a Councilor to be questioned on an agenda item that he/she has not had an opportunity to review and therefore has no knowledge of.

Each city handles the distribution to Councilors differently. Options include arranging for Councilors to pick their packets up at City Hall at a designated time; delivering each packet individually; installing keyed mail boxes at City Hall for after-hours pick-ups, etc.

Agenda packets may be bound loose-leaf, spiral or post; or simply stapled and rubber-banded together. Many Councilors keep "working files" on projects so they like to separate the staff reports on those certain projects.

CHAPTER 2.06

MINUTES

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2.06.010 Minutes Generally. Recorders in Oregon cities are legally required to keep a record, journal of proceedings or minutes of Council meetings. Most cities have this requirement in their charter. The form in which this record is to be maintained is not spelled out in the ORS, so the purpose of this Chapter is to offer suggestions as to format and content of your minutes.

While there may be working copies or file copies of all minutes in the Recorder's office and they may be microfilmed on a regular basis, there should be official, originally signed copies of all minutes. This official record can be in various forms, but it is suggested that official minute books be kept and that they be stored in a fireproof vault. The paper in these books is usually of a specially treated type to guard against deterioration. Remember -- the minutes reflect the history of your city, and in the event of a disaster, they will be invaluable in recreating records, etc. You may wish to consider having a duplicate set of minutes created by the Microfilming Division of the State Archives and kept off-site (in Salem) in the event of a disaster.

2.06.020 Purpose of Minutes. Keeping a good record of City Council proceedings is very important. A sufficient record must be kept to furnish evidence that the Council has complied with the law or rules by which it is governed, thus pointing to the need for accurate and clear Council proceedings. The facts contained in the minutes are also treated as evidence in a court of law.

2.06.030 Content of Minutes. Minutes need to be clear, concise, precise and unambiguous. They need to show clearly, beyond doubt, exactly what actions were taken and decisions were made at the meeting -- but not necessarily everything that was said. Remarks that clarify the "intent" of the legislative body in its decisions should be noted. The following is a non-comprehensive list of information to be included in the minutes:

- Date, location and type (regular, adjourned, special) of meeting;
- Scheduled time of meeting and the time the meeting was actually called to order;
- Officials/members present and officials/members absent;
- Topics of business and actions taken on each business matter;
- Record of motions and voting;
- Time of adjournment; and
- Signature blocks for presiding officer and/or Recorder.

If someone leaves during a meeting, note the time person left and the time of return, if applicable.

2.06.040 Standard Format. Use of standardized format is recommended to develop uniformity of minute entries and to save time in composing the record. If word processing equipment is utilized in the preparation of minutes, a glossary can be set up for standardized items, such as adoption of resolutions and ordinances, award of contracts, etc., which then requires that you input only specifics, such as titles of resolutions and ordinances, project numbers, etc.

2.06.050 Approval of Previous Minutes. Most cities place approval of the previous meeting minutes on the Consent Agenda. Copies of the minutes should be provided to Councilors in sufficient time for their review prior to the Council meeting. If any corrections need to be made, Councilors may request the changes prior to the meeting. The minutes become the formal record of the meeting when approved as written, or as amended by the Council.

2.06.060 Record of Action Taken. Some Council's require "action only" minutes, where little, if any, narrative is included, and only motions and votes are shown in the record. Other Councils require more extensive minutes, which may include not only details on each agenda item listed, but also the discussion thereon. ORS 192.650 defines what is legally required in the contents of the minutes.

For adoption of a resolution or an ordinance, the minutes should include its title and the number assigned to it.

A written report or written communication presented at a Council meeting need only be referenced in the minutes with the name and title of the author, date of the report or communication, subject of the communication or title of the report, and the action taken on the matter.

Oral reports or communications need only be referenced in the minutes by name of person, address (if desired), the subject matter, and the disposition made by the Council.

2.06.070 Oral Debates, Arguments and Discussions. Some Recorders, as a matter of course, make no reference in the minutes regarding Councilor's remarks, except where a Councilor specifically requests that his remarks be included in the minutes. Cities who follow this process support the concept that minutes should only record the "actions" taken by the Council, and were never meant to include the reasons for taking such actions.

Other Recorders make reference in the minutes to Councilors' comments and reasons for voting for or against a motion. It is really a matter of individual city preference. However, if a Councilor requests that "the record show" his or her reason for voting, the Recorder is well advised to include the same in the minutes, unless Council policy precludes it.

2.06.080 Hearings. Minutes of Council meetings with respect to hearings should include:

- **Jurisdictional Facts:** To sufficiently prove that a hearing was held in compliance with the statute or ordinance governing the same, the minutes should reflect that the required notice was given in accordance therewith, and that the hearing was held at the time and place specified in the notice -- this would equate to jurisdictional facts.
- **Evidence Produced at Hearings:** This would include evidence presented and oral testimony given at a hearing. Minutes should make appropriate reference to anything submitted in writing, such as affidavits, reports or letters; or to other objects submitted, such as maps or photographs, which are considered part of the record. With regard to oral testimony, the record should show the name of the person speaking, his or her address and whether testimony was for or against the hearing subject. Some Recorders briefly refer to the content of the testimony in the minutes; however, there is no requirement that this be done.
- **Findings of Council:** Usually the findings made by the Council in respect to public hearings are incorporated in the ordinance or resolution adopted as a result of the hearing. When this is done, the minutes need not record these findings in the body of the minutes, but should refer to the resolution or ordinance voted upon by the Council. Some Council's prefer, however, to have their comments in regard to public hearing findings included in the record.
- **Arguments and Debates at Hearings:** Once again, the inclusion of arguments and debates occurring at public hearings is a matter of personal preference of the individual Recorder or Council. There is no requirement for inclusion in the record, but some cities, as a matter of procedure, briefly note arguments or debates.

2.06.090 Adjournment. In recording adjournment, the minutes should show whether it was adjourned to another time prior to the next regular meeting, or merely adjourned. Some Council's adjourn by motion. In other cities, the Mayor or presiding officer may declare the meeting adjourned.

2.06.100 Signing the Minutes. Frequently the rules governing a city will require that the Recorder sign the minutes; some also require the Mayor to sign them. Regardless of whether such a procedure is legally necessary, it is recommended that the Recorder sign all minutes, as it adds authenticity to the minutes as public record and reflects the approval of the Council.

2.06.110 Use of Tape Recordings and Retention. There is no statutory requirement that Council meetings be tape-recorded. When a Recorder makes an authorized tape recording of a Council meeting to facilitate the preparation of the minutes, any person has a right to inspect the tape and to listen to the tape on equipment provided by the city. Any person also has the right to receive a copy of the tape, by either purchasing a copy from the city, or making a duplicate copy on his or her own equipment. This does not include the right to take the tape off city premises or to have a written transcript made by the city. Tapes of executive sessions are exempt from disclosure.

If tape recordings of routine Council meetings are made, the City Records Retention Schedule requires that the tapes be retained for one year. The tapes may then be erased or destroyed.

2.06.120 Preparation of the Minutes. Minutes of each Council meeting should be prepared as soon as possible to be available for approval by the Council at its next meeting. This may not be practical or possible when Council meets each week. It is advisable that the minutes be done in rough draft prior to final preparation, and that the draft be checked against the agenda to be sure each item was included. If at all possible, a second person should review the draft for errors and/or omissions.

2.06.130 Summary--Annotated Agenda or Synopsis. A summary of Council actions is commonly used to transmit information quickly to city staff and members of the press. The summary may be presented in several different ways; however, there are two that are used by most cities.

The first is the annotated agenda. This is done by marking the agenda face sheet with a notation as to the action taken by the Council. (For example: Roll Call: All members present.)

The second is the synopsis, a brief list of each item of the agenda, the action taken by the Council, and possible direction to staff for follow-up.

2.06.140 Purpose of Format. Much can be learned from the minutes of other cities. We learn how other cities conduct business, the kinds of business they conduct and what style is used for minutes.

Minute formats should not change with every new City Recorder. While some cities have the same employee for twenty or more years, others change Recorders frequently. If minute formats changed frequently, the lack of uniformity would lead to a lack of credibility. However, there are many times when a change (small or large) is warranted, for example:

- To help create/improve an indexing/document tracking system;

- To make minutes easier to read and/or understand; or
- To more accurately record business.

2.06.150 Format Characteristics. The following is a list of various characteristics for minute formats:

- Put city name and date on each page; number each minute page;
- Use columns and subtitles (capitalize, bold and underline subtitles);
- Include ordinance and resolution numbers and titles; include agenda numbers (if used);
- Minute book, volume or page number (some books come with pre-numbered pages).

No set of minutes could contain all of the above without becoming cluttered and confusing. However, this list will help you evaluate your minute format.

2.06.160 Formatting Suggestions. The following are suggestions on how the minutes should be prepared:

- Single space the text; double space between each paragraph and triple space between each item in the order of business;
- Leave a left-hand margin of an inch and a half; use block style;
- Captions (subject and abbreviated action) may be typed in the left-hand margin, this procedure will facilitate locating and identifying specific business matters at a later date;
- Capitalize and center the heading designating the meeting, time, date, and place;
- Be consistent when using capitalization of titles or proper names, organizations, districts, companies or proper nouns;
- Reference any official document by its assigned number, such as: Ordinance 1234, Resolution 88-2, etc.;
- Item numbering, especially when linked with a minute index system, is used by many cities as a useful aid in locating reports and other business items;
- Identify names and addresses of businesses, applicants, property addresses -- people, places and things;
- Attempt to acquire at the meeting the name, address, and affiliation, if applicable, of persons speaking before the body;
- Use past tense;
- Avoid genders in titles -- instead of using "Councilman" or "Councilwoman," use "Councilor";
- Refer to speakers by "Mr. or Mrs." and "last name," not first name or nickname; if two members have same surname, use first name to distinguish between them; never use first names only;

- After the minutes are prepared in final draft, have someone other than yourself check them for spelling, grammar and other potential errors;
- Prior to the meeting, read the agenda and any supporting material to be more familiar with potential actions and to expedite minute preparation;
- Take notes as the meeting proceeds, including the time each item begins;
- If the meeting is being audio recorded, make an odometer reading notation of any statements or motions that are unclear -- this will expedite preparation of the minutes if further review is necessary; and
- Avoid the use of colorful adjectives and adverbs, such as: "He angrily stated," "hotly added" or "glorified the virtues" of his position.

2.06.170 Motions and Votes. There are various styles of reporting motions and votes. Some cities take roll call votes on every motion, others do roll call for ordinances only. A roll call vote may be requested by any member and is usually honored by the Mayor. Some cities call votes in alphabetical order of the Councilors' last names; others call votes in random order. Some cities list the result of votes with those in favor and those opposed, with the Councilors' names listed as they voted. Others simply state, "the motion carried, with Councilor X voting no," or "the motion carried unanimously."

If members are present and decline to vote, they are deemed to have abstained -- unless they have not voted due to a declared conflict of interest. It is suggested that your "Council Rules of Procedure" outline acceptable voting methods and procedures; for example, if a Councilor abstains -- is he/she required to state the reason for the abstention? In the case of a declared conflict of interest, it is critically important that the minutes reflect, "Councilor X declared a conflict due to (reason) and stepped down."

2.06.180 Corrections to Minutes. The Council has the right and duty to amend its minutes so as to make them correctly reflect what transpired at the meeting. Minutes do not "belong" to the Recorder, the Recorder is simply the submitter and custodian of the minutes. Do not become defensive when corrections to the draft minutes are offered. The art of preparing good minutes develops with experience.

All authorized corrections to the draft minutes should be recorded as a business transaction made at the meeting at which they were approved, as amended. Following the meeting, the draft minutes should be corrected to include the amendment(s) prior to placement of the final, executed minutes in the minute book.

Minutes of a meeting are submitted for approval at the next meeting before they become the permanent record of the city. Do not white out, cross out, or erase -- note the amendments in the margin.

2.06.190 Excerpt from Minutes. Certified copies of minutes often are requested. The entire minutes of a meeting may be certified. If only a small section or one business matter is requested to be certified, the Recorder may certify the appropriate excerpt from the minutes.

2.06.200 Preservation of Minutes. The law requires minutes of the Council to be retained as a permanent record. Therefore, special attention, care and security measures should be implemented to protect the orderly and safe keeping of minutes.

2.06.210 Distribution. Copies of minutes should be provided to Council with the agenda on which they appear for approval. Copies distributed prior to approval should be clearly marked "draft." After approval by the Council, copies of the official minutes should be provided to members of the public requesting them.

2.06.220 Indexing. Although it is not legally required, it may be desirable to maintain a comprehensive general index of the official minutes.

CHAPTER 2.08

OPEN PUBLIC MEETINGS LAW

Sections:

2.08.010	Generally
2.08.020	Purpose
2.08.030	Application
2.08.040	Definitions
2.08.050	Types of Meetings
2.08.060	Place of Meetings
2.08.070	Conduct of Meetings
2.08.080	Executive Sessions
2.08.090	Minutes and Recordkeeping
2.08.100	Violations/Remedies

2.08.010 Generally. The Open Public Meetings Law requires that all meetings of the "governing body of a public body" must be open and public. Furthermore, a "meeting" generally includes any situation in which a majority of the Council or other "governing body" meets and discusses the business of that body. Purely social gatherings are expressly exempted, unless the body's business is discussed. What follows is a more detailed examination of the Law.

It is strongly recommended that every Recorder in the state obtain a copy of the Attorney General's Public Records and Meetings Manual. This manual will teach you basically everything you need to know about the public meetings laws, and will serve as an excellent source for quick information. The manual may be obtained from the Department of Justice, 100 Justice Building, 1162 Court Street NE, Salem, Oregon 97301/Ph: 503/378-3992, Ext. 325.

2.08.020 Purpose. The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly.

The open decision-making policy established by the Public Meetings Law (See ORS 192.630) is made effective by a number of substantive provisions. These provisions are intended to ensure, among other things, that the meeting of governing bodies at which decisions about the public's business are made or discussed are open to the public; that the public has notice of the time and place of meetings; and that the meetings are accessible to persons wishing to attend.

2.08.030 Application. The Public Meetings Law applies to meetings of the "governing body of a public body." A "public body" is any state or local government board, commission, council, bureau, committee, subcommittee or advisory group thereof created by or pursuant to the state constitution, a statute, administrative rule, order, intergovernmental agreement, bylaw or other official act. If two or more members of any public body have the authority to make decisions for or recommendations to a public

body on policy or administration, they are a "governing body" for purposes of the public meetings law.

The Public Meetings Law does not cover private bodies. A private body does not become subject to the meetings law merely because it receives public funds, contract with governmental bodies or performs public services.

2.08.040 Definitions.

- **Meeting:** to be considered an official meeting, "action" must be taken.
- **Action:** all transacting of a governing body's business, including receipt of public testimony, deliberations, discussions, considerations, reviews and evaluations, as well as "final" action.

2.08.050 Types of Meetings. The Council may conduct regular, special, emergency, and work study meetings. For a detailed explanation of each of these types of meetings, please refer to Sections 2.02.100 - 2.02.140 of this manual.

2.08.060 Place of Meetings. Meetings must be held within the geographical boundaries of the city, at the administrative headquarters or at the "other nearest practical location." However, the Council may hold a public meeting in a private place such as a restaurant or residence -- if fully adequate notice is given of the location so that interested persons may attend, and if fully adequate arrangements are made for their convenient attendance. However, the meeting place may not be a place where discrimination on the basis of race, creed, color, sex, age, national origin or disability is practiced.

These rules do not apply in the case of an actual emergency requiring immediate action.

The Council may hold "training sessions" outside the city, so long as no deliberations toward a decision are involved.

2.08.070 Conduct of Meetings. The Public Meetings Law is a public attendance law, not a public participation law. All meetings are open to the public except as otherwise provided by law. The right of public attendance guaranteed by the Public Meetings Law does not include the right to participate by public testimony or comment. Certain statutes, rules, or ordinances outside the Public Meetings Law may require the Council to hear public testimony or comment on certain matters. But in the absence of such requirement, the Council may conduct a meeting without any public participation, testimony or comments. The Council has the right to limit public participation at its meetings.

The Mayor has inherent authority to keep order and to impose any reasonable restrictions necessary for the efficient and orderly conduct of a meeting. Any person who fails to comply with reasonable rules of conduct, or who causes a disturbance, may be asked or required to leave and upon failure to do so, becomes a trespasser. However, it is questionable whether the Council may exclude a member of the public because the person engaged in misconduct at a previous meeting.

Smoking is banned in public meetings.

2.08.080 Executive Sessions. The Public Meetings Law authorizes the Council to meet in executive session under certain limited situations -- ORS 192.660 should be thoroughly studied and all Recorders should become well versed in the authorized reasons for executive sessions.

No executive session may be held for the purpose of taking any final action or making any final decision. The Council may reach a consensus in executive session, but the formal vote must be taken in open session to allow the public the opportunity to know the result of the discussion, which took place in executive session.

Unless the Council reasonably can conclude that public announcement of a proposed decision seriously will compromise future actions that must be taken, the Council should return to open session and announce the decision.

Before convening in executive session, the Mayor should publicly announce the purpose for the executive session, citing the authorizing statute, and the time when the executive session will conclude. The executive session may be extended by announcement of the Mayor.

At the conclusion of executive sessions, the Council should reconvene in open session and then adjourn the meeting.

2.08.090 Minutes and Recordkeeping. The Public Meetings Law requires that written minutes be taken at all meetings. Minutes need not be a verbatim transcript and the meeting does not have to be tape recorded -- although recording is highly recommended.

Minutes must be prepared and available within a "reasonable time after the meeting." After minutes are prepared, they cannot be withheld from the public merely because they will not be approved until the next Council meeting. If requested prior to Council approval, the minutes should be stamped "DRAFT."

Executive session minutes may be kept in the form of a tape recording rather than written minutes. No transcription of executive session minutes must be made unless otherwise required by law. If disclosure of material in the executive session minutes would be inconsistent with the purpose for which the executive session was held under statutory authority, the material may be withheld from disclosure. The news media have no statutory right of access to minutes or tapes of executive sessions beyond that of the general public.

2.08.100 Violations/Remedies. The Attorney General and district attorneys have no enforcement role under the Public Meetings Law. Education and persuasion are by far the best tools available to obtain compliance. Most violations occur because the Council is not familiar with the requirements of the law. Most Council's are at least somewhat aware of the Public Meetings Law and make a good faith effort to comply.

Anyone affected by a decision of a public body may file a lawsuit to require compliance with, or prevent violations of, the Public Meetings Law by members of the Council. An action may be brought even before any decision affecting the plaintiff has been made.

A suit may also be filed to determine whether the Public Meetings Law applies to meetings or decisions of the Council. The suit must be brought in the circuit court of the

county in which the Council normally meets. Any suit brought under the Public Meetings Law must be commenced within 60 days following the date that the decision becomes public record.

Notwithstanding the exclusive remedy provisions mentioned above, complaints that public officials have violated the executive session provision of the Public Meetings Law may be made to the Oregon Government Standards and Practices Commission for review and investigation. The Commission may impose civil penalties not to exceed \$1,000 for violating any provision of the executive session statute (ORS 192.660). However, if the violation occurred as a result of the governing body of a public body acting upon the advice of the public body's legal counsel, a civil penalty may not be imposed. If the Commission chooses not to pursue a complaint at any time before conclusion of a contested case hearing, the public official may be entitled to reimbursement of reasonable costs and attorney fees.