

Conducting and Controlling Town Board Meetings

Most town board meetings often occur with few if any problems. Yet, from time to time, a controversial issue, a simple misunderstanding, or personality conflicts, will cause challenges to how the board is conducting its business. Further, townships occasionally must deal with unruly participants, be it from the audience or the board itself. Understanding the legal requirements, what is authorized by law, and developing internal rules, can go a long way towards conducting productive meetings and avoiding challenges to board actions. The following is an overview of some of the key issues town boards should consider when conducting a typical public meeting.

I. OPEN MEETING LAW

Before convening any meeting, be sure that proper notice has been given pursuant to Minnesota Statute Chapter 13D.¹ Actions taken at an improperly noticed meeting can be invalidated and the participating officers could face serious legal consequences. Even if these consequences do not occur, public trust is likely to be negatively affected. Avoiding the appearance of secrecy and impropriety can go a long way in establishing and maintaining the public's trust in the town board, which in turn will help town business be conducted in an efficient and effective manner.

II. CONVENING AND RUNNING A TOWN MEETING

Oftentimes, the town chairperson will convene and run the meeting. Meetings should be convened at the time stated in the notice, but only if a quorum of the supervisors is present. If no quorum exists, the meeting will need to either be delayed until a quorum arrives or canceled and rescheduled. State law does not create a chairperson position, so it is up to each town board to determine how it will decide who will be the chairperson. In the absence of the chairperson, the remaining supervisors will need to decide who will run the meeting. Chairpersons have the same authority to participate in the meeting as does any other supervisor.² This means that, absent some express reason to the contrary (i.e. local by-laws, conflicts-of-interest, etc.) he or she can make motions

¹ See 13D.04 for general notice requirements. However, annual meetings, elections, and the enactment of certain rules, i.e. planning and zoning, have other notice requirements that town officers should specifically be aware of.

² See Minn. Stat. 348.13. The only listed authority a chairperson has in Minnesota State Law is that of collecting go-pher fees. However, the chairperson may take on extra duties, and in fact often do.

and vote on any issue. It is traditionally the chairperson's role to recognize speakers, to make sure that everyone is clear on an issue, and to call for any vote that is required to be taken. It is also the chairperson's discretionary duty to end discussions as needed to keep the order, and to try to keep the meeting moving at a good pace while allowing complete discussions on each issue.

III. AGENDA

There is no statutory requirement that an agenda be prepared for a town board meeting. It is, however, a good way to help inform audience members of what will be discussed at the meeting. An agenda can also help keep the meeting orderly and thus more time efficient. The most common way of developing an agenda is for the town clerk to collect requests from the supervisors, and to keep track of both routine business and special items that need to be taken care of, and to then compile them into a logical order to be dealt with. At a regularly scheduled meeting, the board is not limited to acting on only those items listed on the agenda and so any supervisor can raise any additional item he or she wishes to discuss. At a special meeting, however, the board can only discuss and act on those items that were included in the notice provided for the meeting and thus the agenda can be constructed straight from the notice.

IV. PARLIAMENTARY PROCEDURE

Contrary to popular belief, neither Roberts' Rules of Order, nor any other parliamentary process, is statutorily imposed on townships. This means that from a purely legal perspective, a town board can conduct its business in just about any manner it so chooses. The board does not need to worry about what motion should proceed what other motion, etc. Townships can elect to adopt certain rules of order to help keep things organized and to help prevent any one member from dominating a meeting. MAT, however, discourages townships from officially adopting formal rules, such as Roberts' Rules. This is because that once adopted by the board, the rules become binding and any deviation from the procedure allows for challenges to the validity of an action taken by the board. Because very few people truly know all the intricacies of Roberts' Rules of Order or other common parliamentary procedures, mistakes can easily occur which subject the board's valid decisions to possible challenges of technicality of the rule.³ If the board members are agreeable with each other a formal set of rules is not needed. However, a town board can adopt its own set of rules and take pieces from existing parliamentary rules adopting a basic operating procedure making meetings remain orderly and minimizes confusion. Before adopting any set of rules, a town board should consult with their town attorney.

³ For instance, in Roberts' Rules, there are different rules depending on the size of the board. One such rule is that any motion by a small board is automatically seconded by the person originally moving. All town boards would be considered small boards under Roberts' Rules. So, any motion by a town board that has adopted Roberts' Rules is automatically seconded, which could lead to issues if challenges occur.

V. CONDUCTING BUSINESS

It is important to know the difference between motions, by-laws, resolutions, and ordinances and what type of action may be taken by each.

- A. **By-Laws or Policies:**⁴ refer to internal operating procedures discussed above.
- B. **Motions:** refer to the process by which action is requested (i.e. “ I move that...”)
- C. **Resolutions:** refer to a more formal action than a motion used to make official appointments, recognize special issues, and to adopt administrative policies, etc. Resolutions generally start with a series of “whereas” clauses that state the reason for the resolution, followed by a “therefore be it resolved” provision that states the actual action being taken.
- D. **Ordinances:** refer actions reserved for official regulations that will be enforced and for which penalties may be imposed for violations. Ordinances must be adopted pursuant to formal statutory procedures, including the general requirements of Minn. Stat. § 365.125.

Knowing the differences between these actions and how to adopt each will minimize confusion and the risk of successful challenges to town board actions.

VI. VOTES

Most actions taken by a town board only require a simple majority of those voting on the issue to be approved. Some matters, however, requires a majority vote of the town board, and still others require a super-majority vote such as a two-thirds vote. For most townships this is not an issue because a majority vote of a three-person board is also a two-thirds vote. Townships with a five-person board, however, will need to be more aware of these requirements. In addition, absences, abstentions, and vacancies can all effect how a vote should be counted. For example, if a supervisor is absent from a meeting he or she is still a member of the board and thus his or her absence has the effect of being a yes vote on issues requiring either a unanimous or set percentage of the entire board for approval. If a supervisor abstains from voting because of a conflict-of-interest, the board is temporarily reduced in size and any required percentage vote is based on the smaller number. If, however, a supervisor merely wishes to avoid controversy, his or her vote would still be needed to achieve the necessary percentage. Vacancies also serve to temporarily reduce the size of the board for the purpose of calculating required votes.

⁴ The term ‘by-laws’ is commonly used as rules specific to a board, such as a board of directors of a company. However, when discussing town governance, the definition of the term is not so clear. For instance, Minn. Stat. § 365.11 refers to ‘bylaws’ seemingly synonymously with ordinances. Because of this potential for confusion, it is better to refer to by-laws as either “rules of the board” or as “policies.”

VII. KEEPING RECORDS

The Open Meeting Law requires that the all actions be recorded in a journal and that the votes of each board member be recorded when approving the expenditure of funds, except for court ordered payments and routine bills.⁵ A verbatim recording of all discussion is not required, but enough of the conversation should be recorded to provide a full and accurate record that can support the decisions made by the board. Only the final minutes approved by the board constitute the official public record. If the town clerk tape records a meeting for his or her own personal benefit in transcribing the minutes, that fact should be recognized by board resolution and the tapes should be destroyed immediately following the adoption of the official record. Otherwise, any tape recording or other documentation will constitute a public record even if it is not the official record. So long as the person does not disrupt the meeting, any member of the public who wishes to record the meeting must be allowed to do so.

VIII. CONTROLLING UNRULY PARTICIPANTS

The Open Meeting Law gives people the right to attend town board meetings, but not to participate and certainly not to disrupt the proceedings. Disrupting a public meeting is a criminal offense punishable as a misdemeanor.⁶ Taking the step of citing and prosecuting someone for a violation of this statute should, however, be the option of last resort. If it becomes necessary to try to remove a person from a public meeting, the assistance of a law enforcement officer should be sought and not just a sergeant-at-arms. If a person has repeatedly been the source of uncontrollable disruption, it may be possible for the town board to seek a restraining order against the person. Again, this approach should only be used in the most extreme circumstances. Instead, trying to prevent a meeting from getting out of control in the first place is a better approach to take. Adopting rules of procedure, and informing the public of what the rules are, is a good means of achieving this task. Such rules may include:

1. having a fixed time for public input;
2. placing time limits on each speaker;
3. requesting that groups appoint a spokesperson to represent their position on an issue;
4. require people to submit in writing any request to address the board or to raise a new issue;
5. restricting comments to issues of public concern; and
6. requiring recognition by the chair before speaking. If a meeting gets particularly rowdy, it may be advisable to recess the meeting to a later time to allow a cooling off period.

If problems have existed at prior meetings despite following these suggestions, or if there is any concern about the physical safety of the either board or attendees at a town board meeting due to

⁵ Minn. Stat. § 13D.01 subd. 5.

⁶ Minn. Stat. § 609.72.

the actions or threats of someone, then it is strongly encouraged that the board request that law enforcement be present during and immediately following the meeting.

Dealing with a disruptive town board member or staff can be even more challenging, particularly if the person is the town chair. Assuming the disruptive party is not the chair, the chairperson should try to cut off improper and out-of-order comments by other board members. The person should be reminded that as a town officer they have a duty to the township to provide good leadership and that their actions reflect on the entire community. If the chair is the problem, the other board members could vote to elect a new chairperson. If any town officer's or staff member's actions are particularly offensive, the board should pass a motion to disavow the behavior. Ultimately, a truly disruptive member could be removed from the meeting but only in the worst scenarios. A town officer generally cannot be removed from office simply due to his/her actions at a meeting, but such actions may affect the elector's vote at the next election.