

# MINUTES: CONTENTS

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### Professional Registered Parliamentarian

#### **Introduction:**

This explanation of minutes is based upon the current edition of *Robert's Rules of Order Newly Revised* 11<sup>th</sup> edition, (abbreviated RONR) pages 354-355 and 468-476.

This article was originally published in 1998 and was based upon the 9<sup>th</sup> edition of RONR. The 10<sup>th</sup> and 11<sup>th</sup> editions of RONR made only minor changes to the requirements for minutes. However, there has been an increased need to provide this information with updated references and a few examples to assist with appropriate drafting of minutes. This article is oriented towards Hawaii's Condominium and Community Associations which are required to conduct their proceedings in accordance with RONR. The article was recently published in the June 2019 Real Estate Commission Bulletin, The Hawaii Condominium Bulletin. The link is: <https://cca.hawaii.gov/reb/files/2019/06/CB1906.pdf>.

#### **Minutes-Defined:**

Minutes are the **official records** of the proceedings of a deliberative assembly. Hawaii's condominium property regimes, cooperatives, community associations, and the board of directors function as deliberative assemblies. Minutes may be circulated before approval. **However, the minutes do not become the official record of the proceedings until they have been approved.**

**TIP:** When the minutes are approved, the word "Approved" with the secretary's initials and date should be written at the bottom.

The actions of an organization start immediately when a motion is adopted and not when the minutes are approved. Notwithstanding any official approval, minutes may be amended even years later by the motion to *Amend Something Previously Adopted*.

There is no requirement that an individual be present at a specific meeting in order to be eligible to vote to approve that particular meeting's minutes. Even if the regular secretary was not present at a specific annual meeting, the secretary, if a voting member, may still participate and vote, if necessary, to approve the minutes.

RONR page 468 is definitive about the contents of minutes. It states in part, "In an ordinary society, the minutes should contain mainly a record of what was done at the meeting, not what was said by the members." The minutes are supposed to be a record of **what was done and not what was said!**

#### **Minutes don't contain the following:**

1. the engineer's opinion or report;
2. the lawyer's opinion or report;
3. the parliamentarian's opinion or report;
4. the community association manager's opinion or report;
5. the resident manager's opinion or report;

6. the secretary's opinion or report;
7. the treasurer's opinion or report;
8. the names of members speaking in favor of or opposed to a motion or their statements;
9. individual members' or non-members' demands for their, "remarks to be in the minutes", "remarks to be in the record"; or
10. post-meeting comments such as owners' forum remarks.

**TIP:** The details of the officers' reports, resident manager's report, community association manager's report, etc. are rarely formally endorsed by an association or a board. Therefore, the minutes should simply state that the report was presented. Do not attach the report to the minutes unless it was formally endorsed.

### **Minutes don't need to contain the following:**

1. an individual's apartment number, unit number, or address;
2. the name of the seconder, unless **specifically ordered** by the group; or
3. the name of every guest who attends the meeting, unless **specifically ordered** by the group.

Each of the above items has appeared in minutes of more than one Hawaii community association or board. Many of these items have caused some form of conflict at either an association annual meeting or a board of directors' meeting. This handout will describe a few situations where minutes have negatively impacted association management. It will also provide information for a good set of minutes, and provide internet links to a sample set of meeting minutes for a fictitious annual association meeting and board meeting.

### **Incorrect or Missing Minutes can have unforeseen consequences:**

(Generic names are used to protect the well-intentioned guilty! Each of the examples below except for the last 2 items has been found in the minutes of at least one association this past few years.)

1. One set of annual meeting minutes included comments from the owners' forum. The minutes contained the statement, "John and Jane Doe donated their time to plant the new palm trees at the back of the building."

Although this statement seems very helpful for the association, it has created a documented history of work being done by individuals on the common area. Their license status is unknown. Were they considered employees? What if somebody is injured by an improperly placed palm tree? Since it was in the annual meeting minutes, it is now available to future purchasers, owners, litigants, etc.

2. Another set of minutes contained the following, mistakenly included under New Business: "Mrs. Roe requested clarification regarding the progress of the installation of a handicapped parking space on the premises. The president clarified that the association does not fall under ADA standards, but regardless is working to install a loading area suitable for handicapped vehicle requirements for the benefit of residents. Further, she noted that the

main obstacle to the AOA's progress is finding sufficient space for a fully compliant parking/loading area."

Regardless of whether the president's ADA statement is correct, issues are created if there is no loading area installed. Even the explanation about the "main obstacle" can be used against an association if it can be shown in the future that there was sufficient space in some other area.

3. A set of board minutes described in detail an owner's concern about black mold on the property. Even though the board investigated, there was nothing in the minutes to indicate that a complete investigation was done and the problem resolved.
4. A real court case occurred several years ago. The minutes of a meeting consisted entirely of the notes of a secretary, paraphrasing various statements and motions. The attorney's argument, even referencing Robert's Rules, failed to dissuade the court from using the paraphrased statements as if they were official action, even though the statements differed from the real decisions of the group.
5. Another case is developing where the board approved a contract in executive session but failed to keep executive session minutes substantiating their action. The new board is investigating and there is no substantiation that the contract was properly approved.

### **Minutes should contain the following basic information:**

1. the name of the organization;
2. type of meeting, for example, annual, regular, special, etc.;
3. the date, time, and place, if not always the same;
4. the fact that the regular chairman and secretary were present, or the names of the persons who substituted for them; and
5. whether the minutes of the previous meeting were read and approved or first corrected and then approved with the corrections.

**TIP:** Make sure that the minutes include items that may be legally required (e.g. votes of board members at a regular board meeting). The attorney should be able to help in this area.

### **Minutes should contain the following information related to each subject matter:**

1. all main motions or motions that bring a main question back to the

organization (*Take from the Table, Rescind or Amend Something Previously Adopted, Discharge a Committee, and Reconsider*);

2. the disposition of main motions or motions that bring a main question back to the organization B if one of these motions is temporarily disposed of (for example, postponed to the next meeting, referred to a committee, etc.), then any motions directly related to the original motion must also be included in the minutes;
3. other motions that were not lost or withdrawn in cases where it is necessary to record them for completeness or clarity;
4. formal notices of motions to be brought up at a future meeting; and
5. the motions *Point of Order* and *Appeal* (demand for enforcement of the rules and an attempt to reverse the chair's ruling, respectively), whether sustained or lost, including the reason for the chair's ruling.

**TIP:** Make sure that the **exact wording** of the adopted motion or a notice of motion is placed in the minutes. There are numerous examples of disputes that have occurred regarding the actual wording of a specific motion.

**TIP:** The *Point of Order* is one of the few motions where the minutes will have the chair's reason for a decision. Occasionally, a supportive opinion from the lawyer or parliamentarian becomes the basis for a chair's ruling. In these cases, some organizations include the document in the minutes because they relate to and form the basis for a particular ruling.

**TIP:** Sometimes a *Point of Order* motion is **used erroneously** to provide information, debate, or ask a question. **This is not** a true *Point of Order* motion. This type of information should not be in the minutes. (The proper motion for asking questions is a *Parliamentary Inquiry* or a *Request for Information*.)

### **Minutes are also subject to several additional rules:**

1. When a count is ordered or the vote is by ballot, the number of votes should be entered. In the case of an election, all votes must be disclosed both to the membership and in the minutes, **including improper votes and votes received by individuals who were not elected.**
2. When the voting requires the entering of the votes in the minutes (such as a regular or special board meeting conducted for an organization complying with Hawaii Revised Statutes Chapters 421I, 421J, or 514B), then the names of those voting on each side should be entered in the minutes.

3. The name of a committee and the reporting member can be entered in the minutes when a committee report is provided. Do not attach or include the report as a part of the minutes unless **specifically ordered** by the group.
4. A Planned Community Association [reference is made to Hawaii Revised Statutes Section 421J-5(f)] has additional rules regarding content of board minutes relating to the appointment of committees or subcommittees.
5. The name and subject of a guest speaker can be entered but no effort should be made to summarize the remarks.

### **Executive session minutes:**

1. Make sure that executive session minutes are maintained with very tight secrecy and confidentiality.
2. Minutes should be taken of *all official board meetings*. The failure to take proper minutes of executive session meetings can lead to disputes about whether certain decisions were actually authorized. It can also be used to demonstrate that a board has a history of taking action that has never been properly authorized in an appropriate set of minutes.
3. Motions in executive session do not go in the minutes of the regular meeting unless the board, in executive session, **specifically** orders their release.

For example, a motion authorizing the hiring of a resident manager at a specific salary may be approved in executive session. However, the board, in executive session, could also authorize publication in the regular meeting minutes the decision to hire the resident manager, redacting any salary information.

Other examples which have actually occurred in Hawaii include motions authorizing settlement of a legal matter for not more than a specific amount or a confidential ADA settlement agreement. Disclosure of this information could damage the association or void an agreement.

4. Executive session minutes must have very limited distribution and the board should adopt a formal distribution policy. Here is a sample policy:
  - (a) Executive session minutes are not to be distributed in any other manner not specifically prescribed below. (This policy would *prohibit* e-mail, website, or snail-mail distribution.)
  - (b) Number the copies of the executive session minutes and distribute them for board approval in executive session only.
  - (c) Return all numbered copies to the secretary (if self-managed) or community association manager at the meeting immediately after their approval before anybody leaves.
  - (d) Destroy all copies except retain two originals. One original should be in a separately secured file with the secretary (if self-managed) or

- community association manager and another one at the attorney's office.
- (e) Ensure that all executive session minutes are purged from any computer readable media and backup.
  - (f) The agreement by the community association management company to comply with these procedures should be in writing and filed with the association records.

A sample set of minutes in "Word" and "PDF" forms are available through the web-links: <http://tinyurl.com/Steveghi-Minutes-doc> and <http://tinyurl.com/Steveghi-Minutes-pdf>

The reader is urged to consult appropriate legal counsel for applicability of current laws to the minutes.

Steve Glanstein is a past president of the Hawaii Chapter of CAI as well as the Hawaii State Association of Parliamentarians. He has served in several positions including board member and Treasurer of the National Association of Parliamentarians. He has an extensive resume as a Professional Registered Parliamentarian for over 34 years and more than 1,800 meetings. He has served as an expert witness on parliamentary procedure for many years. He assists many associations in the State of Hawaii and is a frequent contributor for subjects on parliamentary procedure.

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