

Once the council has formally approved the minutes of any meeting, they should not be changed under any circumstance. The council can dispense with the reading of the minutes if all councilmembers have received them prior to the meeting.

Minn. Stat. § 412.221, subd. 1;
Minn. Stat. § 15.17, subd. 1.

The council must provide books and stationery for keeping minutes. State law requires all cities to keep minutes on a physical medium that is of a quality that will ensure permanent records.

Minn. Stat. § 412.151, subd. 1.

Because minutes would likely be considered official papers of the city, they should be signed by the clerk. Although not required by law, in many cities the mayor also signs the minutes after they are approved by the council. If the minute book includes only a clipping from the published proceedings, the clerk should sign the clipping even though the signatures of the clerk and mayor are already printed on the clipping. Minute books are public records and must be available for public view at any reasonable time.

1. Publication of council minutes

Minn. Stat. § 412.191, subd. 3;
Minn. Stat. § 331A.01, subd. 10;
Minn. Stat. § 331A.08, subd. 3.

After every regular or special meeting, statutory cities with populations over 1,000 (according to the latest federal Census) must publish the official council proceedings or a summary of the official minutes. The summary must include action on motions, resolutions, ordinances, and other official proceedings. The summary must state that the full text of the summary is available for public inspection at a designated location or by standard or electronic mail. As an alternative to publication, the city may mail, at city expense, a copy of the proceedings to any resident upon request. Publication of the council minutes must generally occur within 30 days of the meeting. If the governing body of a political subdivision conducts a regular meeting not more than once every 30 days, however, the governing body need not publish the meeting minutes until 10 days after they have been approved by the governing body. Cities with a population of less than 1,000 are not required to publish the council proceedings but may choose to do so. The publication requirement in state law does not cover home rule charter cities; therefore, charter cities should consult their charter to determine whether it has a publication requirement.

2. Content of council minutes

Minn. Stat. § 13D.01, subd. 4;
Minn. Stat. § 412.191, subd. 3;
Minn. Stat. § 331A.01, subd. 6.

The clerk must include the following information in the minutes:

- The members of the public body who are present.
- The members who make or second motions.
- Roll-call vote on motions.
- Subject matter of proposed resolutions or ordinances.
- Whether the resolutions or ordinances are defeated or adopted.

Minn. Stat. § 412.151, subd. 1.

*See Statement of Position,
Meeting Minutes, Office of the
State Auditor.*

- The votes of each councilmember, including the mayor.

Ordinances, resolutions, and claims considered by the council do not need to be fully detailed in the minutes if they appear in other permanent records kept by the clerk and can be accurately identified by the description given in the minutes.

The Office of the State Auditor has recommended that meeting minutes include the following information in addition to the information required by state statute.

- Type of meeting (regular, special, emergency, etc.)
- Type of group meeting (whether the meeting is a meeting of the governing body or committee, for example).
- Date and place the meeting was held.
- Time the meeting was called to order.
- Approval of minutes of the previous meeting, with any corrections.
- Identity of parties to whom contracts were awarded.
- Abstentions from voting due to a conflict and the member's name and reason for abstention.
- Reasons the governing body awarded a particular contract to a bidder other than the lowest bidder.
- Granting of variances and special use permits.
- Approval of hourly rates paid for services provided, mileage rates, meal-reimbursement amounts, and per-diem amounts.
- Listing of all bills allowed or approved for payment, noting the recipient, purpose, and amount.
- List of all transfers of funds.
- Appointments of representatives to committees or outside organizations.
- Reports of the officers.
- Authorizations and directions to invest excess funds, information on investment redemptions and maturities.
- Time the meeting concluded.

3. Making an adequate record

It is very important to make an adequate record of council decisions and of the factual information on which councilmembers base their decisions. Minutes are the primary record of the decision-making process and are critical if council actions become subject to judicial review.

Council actions are generally classified as either legislative or administrative in nature. The establishment of general policies and procedures is legislative action and is subject to limited judicial review. Courts typically will not substitute their judgment for a council's judgment on these topics.

Administrative or quasi-judicial actions involve the application of a general policy to a specific person or situation. Administrative actions are subject to greater judicial scrutiny, and will be set aside if they are arbitrary, unreasonable or capricious. Therefore, it is important for the council to develop an accurate record and findings.

Metro 500, Inc. v. City of Brooklyn Park, 297 Minn. 294, 211 N.W.2d 358 (Minn. 1973); *Inland Constr. Co. v. City of Bloomington*, 292 Minn. 374, 195 N.W.2d 588 (Minn. 1972); *Bank of America, FSB v. City of St. Paul*, No. C7-97-1073 (Minn. Ct. App. Feb. 17, 1998) (unpublished decision).

See also cases cited concerning the necessity of findings in Handbook, Chapter 14 (land-use decisions).

For example, in order for a court to meaningfully review council actions, the minutes must clearly and precisely state the council's finding of facts and how those facts led to the council's decision. Findings of fact serve not only to improve the decision-making process, but also aid in judicial review. The findings are part of the record. When a court reviews council proceedings, it will rely on the records the city actually kept and not on the records the city might have maintained.

4. Parts of the record

When the city council or other public body holds a hearing, the record usually consists of two separate parts: the transcript, which preserves testimony, and the final order or determination. Following is a sample final-order outline for a conditional use permit. The elements of the order reflect the steps taken by a hearing body in arriving at a decision:

- A caption or title, such as, "In the matter of Ms. X's application for a conditional use permit."
- A preamble that summarizes the council's actions at the hearing and states the purpose of the application.
- Findings of fact (individually numbered).
- Conclusions or reasons.
- A decision.
- An opinion (if any).
- A copy of the transcript, tape recording or, at minimum, detailed minutes that include all objections and rulings on them (if any).

When a council prepares precise findings of relevant facts, the result is a well-reasoned decision. When a council can demonstrate its conclusions are consistent with all the facts in the record, its decision is likely to be upheld if judicially challenged. The record should also demonstrate compliance with all constitutional requirements, as well as with all procedural requirements. Often, due-process deficiencies, such as lack of notice, provide grounds for appeal.

III. Motions, resolutions, and ordinances

A. Passing motions, resolutions, and ordinances

Any councilmember, including the mayor, may introduce an ordinance or resolution. When ordinances or resolutions are before the council, the council may act upon them at once, refer them to a committee for study and recommendation, postpone consideration to some future time, or take any of the other subsidiary or privileged motion actions. After the council has completed all consideration and discussion of the matter, the presiding officer should read the ordinance or resolution and call for a vote.

If the council decides to refer the matter to a committee, the committee may conduct an investigation and recommend passage of the ordinance or resolution in its original form or in an amended form, or it may reject the ordinance or resolution. Debate on the ordinance or resolution may take place at the time of its introduction, while a committee is considering it, and after the committee has reported its findings and recommendations.

See "Counting the Votes of Council Actions Parts I and II," Minnesota Cities (May 2006, p. 19; June-July, p. 19) for more information.

Minn. Stat. § 412.191, subd. 4 (summary of ordinances).

Minn. Stat. § 412.851 (vacation of streets).

Minn. Stat. § 412.191, subd. 4.

Minn. Stat. § 462.357, subd. 2b.

Most resolutions and procedural motions of the council must receive a majority of the votes cast in order to be adopted. To illustrate: if two members of the council vote in favor of a resolution, one votes against it, and two abstain from voting, the resolution passes. State law requires some resolutions to be adopted by more than a majority of those voting on the resolution. For example, a resolution to approve summary publication of an ordinance requires a four-fifths vote of the members of the council. And a four-fifths vote of the members of the council is required to vacate a street.

Ordinances, on the other hand, must be enacted by "a majority vote of all the members of the council," except where a larger number is required by law. Therefore, on a five-person council, an ordinance would need at least three favorable votes to pass. State law requires a larger number in some circumstances. For example, a two-thirds vote is required to change the classification of land in a zoning district from residential to commercial or industrial.