

ACTIONS BY BOARDS OF COMMISSIONERS

By Richard Jonson
Jonson & Jonson, P.S.
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This article will cover some basic fundamentals of how Boards of Commissioners of Water and Sewer Districts take action and make decisions. Legal citations have been mostly omitted and are available upon request.

Boards are required to make decisions in open public meetings. Decisions are made by a majority vote of the Board. A regular meeting schedule is required to be adopted by resolution. Special meetings have specific notice requirements. Minutes of all meetings are required to be prepared and maintained as a public record.

RCW 57.12.010 requires Boards to act by resolution. A resolution is usually a separate written document, signed by the Board, which contains a caption, recitals and a decision. The act of adopting a resolution, which is usually done by motion, is described in the meeting minutes. Case law has relaxed the resolution requirement by holding that an action taken by proper motion is equally effective as a resolution.

A motion requires a moving party to set forth a proposal and approval by a majority vote of the Board. Procedures for the making and adopting of motions are set forth in detail in Robert's Rules of Order, now on its 10th edition; however, there is no requirement that Robert's Rules be adopted. There is no statutory requirement that a motion be seconded although Robert's so requires. If a Board wishes to adopt Robert's Rules, it should do so expressly.

Motions appear in the meeting minutes. Although not required, some districts take great care to identify the persons making and seconding motions in the meeting minutes. Minutes should indicate that a motion was made, seconded (if Robert's Rules are being followed), discussed and passed, whether unanimously or by a majority. Minutes should identify abstaining and dissenting members – for their protection.

In determining whether to adopt a written resolution as opposed to a motion that simply appears in the minutes is dependent on several aspects. Judgment, experience and staff availability play a major role. Sometimes statutes specifically refer to adoption by resolution. Examples are: Adoption of a regular meeting schedule (RCW 42.30.070); determination of the earliest date that a certificate of delinquency can be filed (RCW 57.08.081(3)); and bond issuances (RCW 39.46.040).

A major aspect to consider is how will commissioners, staff, their successors and the public find a record of Board decisions. Motions buried in minutes can be difficult to locate. The Public Records Act (RCW Ch. 42.56) requires that an index of certain actions and decisions be maintained. Many districts log resolution captions into an index which can be easily scanned or searched by members of the public as a means to comply with the indexing requirement.

If you are interested in learning more about this subject, please contact Richard Jonson at richard@jonson-jonson.com

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