Guidelines for Foundation Board Meeting Minutes

A foundation should retain permanently in its corporate record book copies of minutes of all meetings of the board of directors and minutes of any meeting of a committee exercising board delegated powers. The minutes should be prepared as soon as possible following the meeting and approved by the board or applicable committee at its next meeting. The corporate record book containing the meeting minutes typically is maintained at the principal office of the foundation. This article outlines what generally should be included in and excluded from such meeting minutes.

Heading

The heading should include the name of the foundation and also “Meeting of [Board of Directors / Name of the Applicable Committee].” For convenience, you may also include the date of the meeting in the heading.

Introductory Paragraph

The introductory paragraph should recite the following:

- The date and time of the meeting;
- The location of the meeting;
- That notice of the meeting was given in accordance with the bylaws or that notice was waived;
- The names of persons attending the meeting (including, as applicable, if attendance is by telephone);
- The presence of a quorum; and
- Who presided at the meeting (typically the chairperson of the board or the president of the foundation; should be a member of the board, not an employee).
Committee and Other Reports

Reports made to the board of directors, particularly when given by committees with board-delegated powers, should be summarized at a fairly high level in the minutes.

Attorney-Client Privilege

If the board engages in communication during a board meeting that is covered by the attorney-client privilege, the communication should be recorded in the minutes such that it may be easily redacted. Remember that the presence of non-essential staff at the meeting may waive the privilege.

Resolutions – General

Each resolution should be repeated verbatim for the minutes with a record of who introduced the resolution, who seconded the resolution, and the board’s vote (e.g., “unanimous approved” or “five voted in favor”) and any dissent. The meeting minutes must balance carefully the need for a historical record of the board’s decision making against the risk of inhibiting full and candid deliberation by the directors. In most instances, meeting minutes should describe only the final action taken by the board or committee. It is not necessary to describe in detail what was discussed by whom; however, it is appropriate to state in the minutes that the board “carefully deliberated” before voting. There are two important exceptions to this general rule: First, when approving a conflict of interest transaction (including executive compensation), the minutes should carefully record how the board satisfied each element of the “rebuttable presumption of reasonableness” in accordance with the foundation’s conflict of interest policy. Second, a director who dissents should request that his vote be recorded by name. Directors who are present when a vote is taken are presumed to have assented unless a record of their dissent is clearly indicated in the meeting minutes.

Resolutions – Annual Meeting

If the board is self-perpetuating (i.e., directors are elected by directors), the current board should elect new directors to replace the class with expiring terms at the annual meeting of the foundation. In addition, the directors should elect corporate officers for the coming year at the annual meeting.

Closing

The minutes should state what time the meeting was adjourned and by whom the minutes are submitted (typically the secretary of the foundation).

Bottom Line: Remember that the minutes may be subpoenaed in a lawsuit or IRS investigation or reviewed by members (if any) upon request. Always draft the minutes as if they were a public document.
1. Unanimous written consent resolutions of the board of directors and committees exercising board-delegated powers also should be retained permanently in the corporate record book.

2. Note that for notice to be properly waived, all directors must do so by attending the meeting without objecting to the failure to give proper notice or by signing a letter waiving notice, which waiver should be filed in the corporate record book with the meeting minutes.