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Clerk of the County Legislative Body

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Clerk of the County Legislative Body

Reference Number: CTAS-664

The county clerk is the clerk of the county legislative body. T.C.A. §§ 18-6-101; 18-6-104. The clerk keeps the official records of the body, sends required notices, and keeps a record of all appropriations and allowances made and all claims chargeable against the county. The clerk may develop the agenda for the county legislative body meetings.

In addition to keeping the minutes, the County Clerk is required to:

1. Notify each member of a special or called session not less than five days in advance of the meeting T.C.A. § 5-5-105;
2. Present each resolution approved by the county legislative body to the county mayor for signature promptly after the meeting of the county legislative body and report the approval or nonapproval at the next meeting in the reading of the minutes. T.C.A. § 5-6-107;
3. Notify members of vacancies which must be filled by the county legislative body, and record each member's vote to fill the vacancy and enter it in the minutes. T.C.A. § 5-5-111; and
4. Carry out any other duties required by local rules of procedure adopted by resolution of the county legislative body or required by statute.

In instances where no statute or rule of procedure adopted locally addresses a question of parliamentary procedure, many county legislative bodies follow Robert's Rules of Order, a set of procedural rules which may or may not be adopted by the body.

Within almost every county there are three major operating department heads: the county mayor, the chief administrative officer of the Highway Department, and the Director of Schools (under the direction of the Board of Education). Income received and disbursements made by these departments must be authorized by the county legislative body, subject to general and private acts of the legislature and to court decisions. Accordingly, no county funds may be expended unless authorized (generally referred to as "appropriated") by the county legislative body. T.C.A. § 5-9-401.

Appropriations may be made by the county for a number of specifically authorized purposes, or pursuant to the general authorization to appropriate funds for any statutorily authorized purpose. T.C.A. § 5-9-101 *et seq.* The County Clerk keeps a book of appropriations. T.C.A. § 5-9-301. Once an appropriation is made, warrants signed by the appropriate department head (more than one department head may be required) are drawn on the county treasury (trustee).

To learn more about County Clerks serving as the clerk of the County Legislative Body, review the County Legislative Body topic.

Minutes

Reference Number: CTAS-665

It is very important that the minutes of the county commission be accurate, be reviewed, and be formally approved by the county legislative body. The minutes are required to be promptly and fully recorded and open to public inspection in the clerk's office. They must include a record of persons present, all motions, proposals and resolutions offered, the results of any vote taken, and a record of individual votes in the event of roll call. All votes of the County Commission must be public; no secret votes or secret ballots can be taken T.C.A. § 8-44-104. Each member's vote regarding the appointment process shall be recorded by the clerk and entered on the minutes of the county legislative body. T.C.A. § 5-5-111(e). The minutes are the only record of the meeting that will be used if a question arises concerning what happened at the meeting and that will be recognized by a court.

Members of the county legislative body can greatly assist the county clerk in preparation of the minutes by ensuring that all resolutions are presented in writing. This will ensure that the resolution is recorded in the minutes in the proper format and will speed the process of approving and correcting the minutes. However, resolutions that are not presented in writing will have to be reduced to writing by the county clerk.

The minutes should contain what was done by the body and not necessarily what was said by each member. As a general rule the minutes of the County Commission are written in third person and contain

the following information:

1. Date, place, and time of the meeting and whether the meeting was a regular or special meeting.
2. Names of the members in attendance and those not in attendance.
3. Approval or correction of the minutes of the previous meeting.
4. Motions and proposals made, along with amendments, the name of the maker, and the vote on the motions. (Motions withdrawn do not have to be included.)
5. Resolutions adopted in full. Resolutions not presented in writing must be reduced to writing by the County Clerk and included in the minutes.
6. Actual vote of each member on roll call votes and "approved by voice vote" or "disapproved by voice vote" for simple voice vote. A count of the votes should be included when voting is done by a show of hands.
7. Summaries or written reports appended to the minutes for committee reports.
8. Committee appointments, elections to fill vacancies or other appointments, and confirmations of appointments.
9. Any special provision required for compliance, such as a two-thirds vote.
10. A notation if the meeting is also serving as a public hearing on an issue.
11. Any other matter directed by the body to be included in the minutes.
12. Time of adjournment.

The approved minutes should be signed by the chair of the county legislative body and the County Clerk. Rough minutes should be retained until the actual minutes are approved, and then may be destroyed. Minutes are kept as permanent records in a minute book which should be well bound and have numbered pages. A method of topical indexing to find minutes of previous meetings should be kept. Under T.C.A. § 10-7-121, the minutes may be maintained in electronic format instead of bound books or paper records, as long as the requirements of that statute are met.

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