

Board & Committee Meeting Minutes Best Practices: During the Meeting

Continuing my three-part series of blogs about board and committee meeting minutes practices (see [Part 1](#) about what to do before the meeting), here are some practices to consider in your minute-taking routine during the board or committee meeting:

1. Don't record any meetings with audio or visual equipment, as this practice may have a chilling effect on deliberations.
2. Always take attendance and make note of the timing of late arrivals and early departures and timing of attendance of members of management and outside advisors.
3. Use a clear and concise drafting style that generically reflects the topics addressed and acted upon, and the extent of discussion undertaken. Include defined terms as necessary; minutes should be able to stand on their own.

For more significant decisions or discussions, more detail may be appropriate, but minutes should never be akin to a transcript of the conversation. For executive sessions, even if extended in time, only a high-level overview of the topics for discussion is typically appropriate. If any resolutions are adopted during executive session, use the recitals included in the resolutions to reflect any important considerations or information relied on.

4. Minutes should reflect the start and end time of the meeting, but do not need to identify time spent on each agenda item. As mentioned above, the significance of a discussion may be reflected by a more detailed description of the content of discussion and may also be conveyed generically with a statement such as "Members of the board discussed at length."
5. Minutes should reflect the identity of members of management, outside advisors, or directors who make presentations to the board, including committee chairs reporting on committee matters. But, do not attribute questions or comments in discussion to individual directors.
6. Minutes should reflect when presentations and other materials referenced were circulated prior to the meeting. For significant matters (e.g., a merger agreement), consider specifically stating when documents were sent to the directors to show they had an adequate opportunity to review.
7. Minutes can also establish that significant matters have been considered over time. If action is taken on something that was discussed at a prior meeting, consider noting the previous discussion—identifying that prior meeting's date—and ensure the prior meeting's minutes actually reference such discussion.
8. Pay careful attention to any conflicts of interest that a director may have in connection with a decision under consideration by the board. Boards can still receive the protection of the business judgment rule even when there is a director conflict of interest, but the minutes will need to reflect disclosure of the conflict and any procedures undertaken to address the conflict, including any recusal from the meeting, abstention from a vote, and a good faith determination by the disinterested directors that the decision was in the best interest of shareholders.

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