

**Charter Township of Canton
Board Proceedings – January 31, 2017**

A regular study session meeting of the Board of Trustees of the Charter Township of Canton was held Tuesday, January 31, 2017 at 1150 Canton Center S., Canton, Michigan. Supervisor Williams called the meeting to order at 7:01 p.m. and led the Pledge of Allegiance to the Flag.

Roll Call

Members Present: Anthony, Foster, Graham-Hudak, Siegrist, Slavens, Sneiderman, Williams
Members Absent: None
Staff Present: Director Meier, Deputy Chief Stoecklein, Deputy Chief Baugh, Barb Caruso, Kristin Kolb

Adoption of Agenda

Motion by Siegrist, supported by Anthony to amend the agenda to move Citizen Comments to the first topic of the meeting. Motion carried by all members present.

Citizen’s Non-Agenda Item Comments: Karra Thomas, Detroit Wayne Mental Health Authority, Prevention Services Manager – Substance Use Disorder Programs presented a Certificate of Appreciation for 2016 to the township. Supervisor Williams and the Director of Public Meier accepted on the behalf of the township. During the month of June 2016 local businesses are sampled to verify they are in compliance with the age requirements for purchasing tobacco products. This Certificate commemorates the Canton businesses did not sell tobacco products to minors.

Dr. Tom Poirier, 2806 Denton, commented to the board that he is against having the large bins for automated recycling. He feels the bins are too large and unmanageable. He is leery that large regular trash bins will be next. He feels the current system works very well.

Kathy and Walt Filas, residents, spoke against the automated recycling program. They feel it would only benefit the company. In their subdivision, 56% of the residents placed recycle bins out today. Large bins would go not go out as often as smaller bins resulting in the company having less bins to pick up on a weekly basis. Less work to do and less employees required to do the pickup result in less expenses and more profit for the trash collection company. They offered the board research documents on Rizzo. They would like the board to await the results of the investigation into the Rizzo business dealings before voting to extend or alter the existing contract.

STUDY SESSION:

TOPIC 1: Open Meetings Act. (Legal)

Ms. Kolb presented to the board an overview of the Open Meetings Act. She also gave the board members a 3 page – Quick Reference sheet with information/notes on Robert’s Rules. Both the overview outline and the Quick Reference sheet are following.

OPEN MEETINGS ACT

January 31, 2017 Canton Township Board Study Session

I. INTRODUCTION/KEY DEFINITIONS:

- A. The Open Meetings Act is codified at MCL 15.262 et seq.
- B. Along with the Freedom of Information Act (FOIA), known as the Sunshine Laws.
- C. "Meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy... (MCL 15.262(b))
- D. "Decisions" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy. (MCL 15.262(d))
- E. Interestingly, "deliberation" is not defined in the OMA; however, the Michigan court of appeals defined it as "any discussion towards a decision."

II. BASICS—PURPOSE AND INTENT OF THE OPEN MEETINGS ACT:

- A. All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons may be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting. (MCL 15.263(1))
- B. All decisions of a public body shall be made at a meeting open to the public. (MCL 15.263(2))
- C. All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public...(MCL 15.263(3))
- D. A person shall not be required as a condition of attendance at a meeting of public body to register or otherwise provide his or her name or otherwise fulfill a condition precedent to attendance. (MCL 15.263(4))

NOTE: A public body can adopt procedural rules that require speakers to identify themselves, as well as time limits for public comment (overall and individual speakers).

- E. A person shall be permitted to address a meeting of a public body under rules established and recorded by the public body. (MCL 15.263(5))
- F. However, a member of the public has no right to address a public body during the public body's deliberations.
- G. A person shall not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting. (MCL 15.263(6))
- H. This act does NOT apply to a meeting which is a social or chance gathering or conference not designed to avoid [compliance with OMA]. (MCL 15.263(10))

III. NOTICE REQUIREMENTS FOR PUBLIC MEETINGS:

- A. No meeting of a public body shall be held unless public notice is given. Public meeting notices shall include the DATES, TIMES and PLACES of regular meetings. The meeting notice is not required to include an agenda or specific statement as to the purpose of the meeting.

NOTE: The Charter Township Act prohibits business from being transacted at a meeting unless it is stated in the meeting notice. (MCL 42.7)

- B. A schedule of the regular meetings of the Board must be posted within 10 days after the first regular meeting of the calendar or fiscal year. The OMA does not require any specific number of meetings within a year.

NOTE: The Charter Township Act requires at least one regular meeting per month. (MCL 42.7)

- C. If there is a change in the regular meeting schedule, notice will be posted within 3 days after the meeting at which the change is made.
- D. For a rescheduled regular or a special meeting, public notice shall be posted at least 18 hours before the meeting shall be posted in a "prominent and conspicuous place" at the public body's principal office, and on a portion of the Township's website that is fully accessible to the public. Notices of rescheduled regular or special meetings of a public body shall contain the date, time and place of the meeting.

NOTE: Under the Charter Township Act, Board members must be given 24 hours' notice of a special meeting. (MCL 42.74)

- E. A meeting of a public body that is recessed for more than 36 hours shall be reconvened only after public notice posted at least 18 hours in advance. (MCL 15.265)

IV. VOTING REQUIREMENTS FOR PUBLIC BODIES:

- A. Members of a public body cannot vote by proxy; nor can they vote by secret ballot. At this point, Michigan law does not specifically prohibit members of a public body from participating and/or voting from a remote location. Legislation was introduced in 2012 to require a member of a public body to vote in person; however, it was not passed into law. Public bodies can allow or prohibit this in their rules of procedure.
- B. Votes may be by "roll call" or "voice vote". Roll Call vote means to "take attendance." If a voice vote ("yeas" and "nays") reveals a mixed vote, a roll call vote should be taken to be clear on the count and who voted how.
- C. Board members are required to vote on every matter brought before the Board. The only exception is if the issue before the Board has a direct financial benefit to the individual Board Member (i.e. a conflict of interest).
- D. If a Board member believes they may have a conflict of interest, it should be handled as follows:
 - 1. When the item is introduced, and before any discussion occurs, the Board member should disclose the believed conflict.
 - 2. The Board shall then vote on whether the member with the conflict shall be permitted to abstain.
 - 3. If the vote is UNANIMOUS, then the Board member shall remove themselves from the dais for the duration of the discussion on that item. If the member with the conflict is the Supervisor or Clerk, then the Board will need to appoint another of their members to act in the respective capacity for the discussion on that item.

V. CLOSED SESSIONS:

- A. 2/3 roll call vote of members is required to call a closed session. The roll call vote and purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.
- B. A public body may ONLY meet in closed session for the following purposes:
 - 1. To consider the dismissal, suspension or disciplining or, or hear complaints or chagres brought against, or to consider a periotic personnel evaluation of, a public officer, employee, staff member or individual agent, if the named person requests a closed hearing.
 - 2. For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

3. To consider the PURCHASE or LEASE of real property up to the time an option to purchase or lease that real property is obtained.
4. To consult with an attorney regarding trial or settlement in connection with SPECIFIC pending litigation, but only if an open meeting would have a detrimental effect on the litigating or settlement position of the public body.
5. To consider material exempt from discussion or disclosure by state or federal statute.

(MCL 15.268)

- C. Closed sessions must occur during the course of an open meeting.
- D. Deliberations may not occur in closed session EXCEPT in the following circumstances:
 1. Discussing material that is otherwise exempt/privileged under state or federal law.
 2. Strategy on Union negotiations.
 3. Purchase of property; however, the decision to extend an option to purchase must be made in closed session.
- E. A separate set of minutes shall be taken by the clerk at the closed session. These minutes shall be retained by the Clerk, are not available to the public, and shall only be disclosed if required by a civil action. These minutes may be destroyed 1 year and 1 days after approval of the minutes of the regular meeting at which the closed session was approved. (MCL 15.267)
- F. No decisions are to be made in closed session,
- G. Closed session discussions are limited to the stated reason for the closed session.

VI. MINUTES:

- A. Minutes of each public meeting shall be kept showing the date, time, place, members present, members absent, any decisions made, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The corrected minutes shall show both the original entry and the correction.
- B. Minutes are public records open to inspection. The public body shall make copies of the minutes available to the public at the reasonable estimated cost for printing and copying. (CT has typically made minutes available to members of the public for no charge, either by directing requestors to the Township website or providing a copy.)
- C. A public body shall make PROPOSED minutes available for public inspection within 8 business days after the meeting to which the minutes refer. The public body shall make

APPROVED minutes available for public inspection with 5 business days after the meeting at which the minutes are approved. (MCL 15.269)

VII. PENALTIES FOR VIOLATION:

- A. Decisions of a public body carry the presumption they were made in compliance with the OMA. The AG, county prosecutor, or ANY PERSON may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of the OMA.
- B. A decision of a public body MAY BE invalidated if the public body has not complied with the requirements that a meeting be open to the public, that any decisions are made in public, and that all deliberation be made at an open meeting; or if failure to give notice under 15.265 has interfered with substantial compliance with those requirements and the court finds that the noncompliance or failure has impaired the rights of the public under the OMA. (MCL 15.270)
- C. A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.
- D. A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00, or imprisoned for not more than 1 year, or both. (MCL 15.272)
- E. A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than \$500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action. (MCL 15.273)

VIII. IMPORTANT CASE LAW:

- A. St. Aubin v Ishpeming City Council, 197 Mich App 100 (1993):

HELD: Informal canvas by one member of a public body to find out where votes would be on a particular issue is not violative of OMA.

However, in Booth Newspapers v Wyoming City Council, 168 Mich App 459 (1988): lunch meetings held over 2-day period with fewer than a quorum of members of public body were designed to avoid OMA while council deliberated on public policy.

- B. OAG, Op. No. 6074 (1982):

HELD: A public body may, without complying with the OMA, attend a conference or informational gathering designed to focus upon issues of general concern and intended primarily to provide training and/or background info, provided that such public body may not, without complying with the OMA, engage in discussions or deliberations during such a or

meeting or otherwise enter into the processing of addressing or resolving issues of public policy.

Further, a quorum of a public body may, at the initiative of a private group, meet with and listen to presentations by that group, provided that the members of the public group, provided that the members of the public body do not engage in any discussion or deliberations during the course of the meeting.

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C. Ryant v Cleveland Township, 239 Mich App 430 (2000):

HELD: "Deliberation"—not defined in the OME—requires an exchange of affirmative or opposing views, debate on a specific items or engaging in discussion regarding statements made by a member of the public body or a member of the public.

IX. MISCELLANEOUS/CAUTIONARY TALES:

- A. Using e-mail to communicate about policy and other Board decisions may violate the OMA.
- B. Email, texting, or other forms of electronic communication among Board members during the course of a public meeting that constitute deliberations violates the OMA.
- C. Two members are not prohibited from discussing Board issues, unless they constitute a quorum of a subcommittee.
- D. Attendees cannot be prohibited from taping, videotaping or even broadcasting a public meeting.
- E. Careful of meetings where NO discussion takes place; can have the appearance of a violation b/c private discussions were held.
- F. Informal canvas of public body members is okay so long as the canvas does not rise to the level of an actual request for a decision.
- G. Use of private phones and email accounts for Township business.

Robert's Rules Notes

Debate on the merits of a question cannot begin until there is a motion and a second on the floor.

If there is no immediate seconding of the motion, Chair should request. If no second is made, the motion is dead and a new motion may be made.

Can "second for discussion purposes" and later withdraw support

Proper motion is "I move that..." or "I move to..."

Motions should always be in the affirmative, so that an "aye" is in favor of the action, and a "nay" is against.

e.g. "I move to not approve the liquor license..." v "I move to deny the liquor license..."

There should only be one main motion at a time.

However, subsidiary (amend, table), privileged (recess, adjourn), and incidental (point of order, appeal) motions, or motions that bring a question again before the assembly (remove from the table, rescind, reconsider), among others, may be made while a main motion is pending.

1. Motions to amend are motions to amend the working; they are not intended to change the substance of the issue being voted on.
2. Motions to remove from the table must be made at the same or the next meeting.
3. Point of order is not a true motion; rather it is used when a member believes the rules of the Board are being violated. A member can request a point of order, and the chair must make a ruling and if necessary, enforce the rules.
4. Motions to reconsider must be made at the same or very next meeting of the Board (study sessions aren't "meetings"). Motions to reconsider MUST be made by someone who voted in the affirmative.
5. Motions to rescind are motions to cancel or countermand a prior action. A negative note on a rescind motion can be reconsidered, but an affirmative one cannot.

Many motions are not debatable, meaning motion-second-vote, no discussion. That doesn't mean a Board member cannot vote "no,"

Roll call votes (i.e. take attendance) are required to go into closed session. Also advisable where there is a mixed outcome, so record reflects who voted which way.

All communication is through the chair of the meeting: Board Member to Board Member, Board Member to Public, Public to Board.

5. The chairperson restates the motion by saying: "It has been moved and seconded that ..." Unless the motion is not debatable, the meeting is then opened for debate by the chair asking: "Is there any discussion?"
6. The person who makes the motion is usually allowed to speak first. Others may speak after being recognized by the chair. A member should not ordinarily be recognized again until others have had a chance to speak. A member should not speak more than twice on the same motion. Remarks should be made to the chair, not directed to another member, and should be limited to the pending motion. A courteous tone should be maintained at all times. Personal comments directed to a member are not allowed. The chairperson is the "referee" of the debate and the rulings of the chair govern unless successfully challenged by a Motion to Appeal the Ruling of the Chair.
7. Amendments and other motions may be made if in order. Motions to Amend, Refer to Committee, to Close Debate and the like are subsidiary or secondary to the main motion and are voted on first. Such motions are "ranked" in order of priority so that you always know, for example, that a Motion to Table is to be disposed of before a Motion to Amend is in order. A Motion to Adjourn is always in order because it has the highest priority. These motions are listed in order of priority on the top of the chart on the inside of this pamphlet. A motion ranked below another motion is out of order until the other motion is disposed of. Other miscellaneous points or motions, such as a Point of Order or Motion to Appeal the Ruling of the Chair are largely procedural and are therefor considered before nearly everything but the Motions to Adjourn or Recess. Motions to Take from the Table and to Reconsider bring back motions previously set aside or disposed of. Whether these miscellaneous motions are in order depends on the business under consideration and the purpose they are intended to serve. The main motion is always voted on last. A main motion is out of order while another main motion is pending.
8. At the conclusion of debate, the chair asks: "Are you ready for the question?" If so, or if a motion to end debate has been adopted, the chairperson restates the motion. The chairperson states: "All in favor, say Aye;" All opposed, say No." The chair announces the result by stating: "The 'Ayes' [or 'Noes'] have it."

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PARLIAMENTARY

PROCEDURE

QUICK

REFERENCE

GUIDE



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MOTION (in order of priority) ¹	can you interrupt? ²	second needed?	is it debatable?	can you amend?	vote required	can you reconsider?
1. Adjourn	no	yes	no	no	maj	no
2. Recess	no	yes	no	yes	maj	no
3. Table	no	yes	no	no	maj	yes ³
4. Close Debate (Call the Question)	no	yes	no	no	2/3	yes
5. Postpone to Another Time	no	yes	yes	yes	maj	yes
6. Refer (e.g., to committee)	no	yes	yes	yes	maj	yes
7. Amend	no	yes	yes ⁴	yes	maj	yes
8. Postpone Indefinitely	no	yes	yes	no	maj	yes

MISCELLANEOUS MOTIONS						
Point of Order	yes	no	no	no	none	no
Appeal Ruling of Chair	yes	yes	yes	no	maj	yes
Suspend Rules	no	yes	no	no	2/3	no
Show of Hands (or roll call)	yes	no	no	no	none	no
Point of Information	yes	no	no	no	none	no
Take From the Table ⁵	no	yes	no	no	maj	yes ³
Reconsider ⁶	yes	yes	yes ⁴	no	maj	no

Main Motion	no	yes	yes	yes	maj	yes
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¹ When any motion is pending, those ranked above it are in order but those below it are not.

² The right to interrupt means the motion is in order even though someone has the floor. The original speaker regains the floor when the intervening matter is disposed of.

³ Affirmative votes may not be reconsidered.

⁴ Unless principal motion is not debatable.

⁵ This motion may only be made at the same or next meeting.

⁶ Must be made by one who voted with the prevailing side and only at the same meeting. May be made any time, but cannot be considered until disposition of the pending question.

If you have ever attempted to read *Robert's Rules of Order*, you no doubt found the language arcane and the rules painfully detailed. The purpose of this Quick Reference Guide is to provide you with a simple and very usable means of understanding the basics of parliamentary procedure. This Quick Reference Guide has been designed to be fully compatible with *Robert's Rules*.

The chart above lists the various motions typically encountered in most meetings. The chart tells whether the motion requires a second; whether it is debatable; whether it may be amended; whether the chair decides or what type of vote may be required (majority or two-thirds); whether it may be reconsidered once voted upon; and whether the motion is in order while another person has the floor.

The following are the steps leading to a vote on a motion:

1. A member obtains the floor by addressing the chairperson or raising his or her hand to speak.
2. The chair recognizes the individual by name.
3. A motion is made by stating: "I move that ..." The motion should never be put in the negative, such as: "I move that we don't adopt this plan."
4. Another member seconds the motion without needing to be recognized by the chair, or, the chairperson may ask: "Is there a second?"

TOPCI 2: Citizen Complaint and Discipline Process. (PSD)

Public Safety presented an overview of the department's Citizen Complaint Policy, and its Employee Discipline Process. The department also touched on the recent tracking of citizen compliments toward employees.

Questions following the Presentation:

Trustee Anthony asked how union contracts effect the Employee Discipline Process. Deputy Chief Baugh assured the board that Weingarten and/or Garrity Rights are adhered to during the process. All complaints are thoroughly investigated and documented.

Trustee Foster asked how long tapes are kept. DC Baugh replied a minimum of 6 months, but in the case of a complaint they are pulled and kept indefinitely. As complaints normally come immediately following an incident, the 6 month time frame has been adequate to accommodate the investigative process.

Clerk Siegrist asked how privacy and/or the expectation of privacy is preserved with the use of body-cams. Director Meier explained department policy requires body cams be turned off when in hospital rooms or in the back of an ambulance to protect the privacy of the patient/victim.

Trustee Anthony asked if the township attorney or Human Resources department is involved. Director Meier explained these departments are consulted with when necessary.

In a case where staff or township vehicles are involved in an incident, accident, theft, shootings, etc. the Michigan State Police handle the investigations.

Trustee Graham-Hudak asked if cultural barriers have caused problems within the township. DC Baugh explained the township policy is non-bias. They use every opportunity to educate the staff in these cultural differences and spend time investigating ways to learn more about all the cultures within the township. Time has been spent with various religious groups in the area learning what needs to be respected in each case. When asked whether the diversity program will continue, DC Baugh firmly stated yes – every year.

Director Meier explained the departments make every effort to respect the “restrictions” and “customs” of our multi-cultural community as long as these actions do not compromise the situations.

Trustee Anthony complimented Director Meier and his staff calling them the finest in the state.

Trustee Sneedman asked what other accommodations were necessary for the body-cams to be in operation. DC Baugh explained the cameras were purchased in 2016 and have gone through a testing phase to be sure everything works properly following their implementation. He expects them to be in use by February 15, 2017.

Trustee Foster asked if there is also a language barrier. DC Baugh explained the department works with the local organizations as well as the Hate Crimes Coalition for assistance with translations.

Clerk Siegrist complimented all members of the Public Safety Department for skillfully walking the fine line when dealing with the public.

A complete copy of the PowerPoint presentation is available in the Township Clerk's Office, 1150 S. Canton Center Road, Canton MI 48188 during regular business hours or by calling 734-394-5120.

ADJOURN: Meeting adjourned by unanimous decision at 8:52 p.m.

Michael A. Siegrist, Clerk