
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: CYNTHIA GALBREATH
SUBJECT: RESOLUTION: AMENDING POLICIES FOR THE MEETING MINUTES
AND VERBATIM RECORD KEEPING
AGENDA: JULY 2, 2019
DATE: JUNE 21, 2019

ISSUE

Shall the Village Board amend policies for verbatim recordings and meeting minutes.

DISCUSSION

In December of 2003 the Village Board adopted a Resolution on a Policy for the Keeping of Verbatim Record of Closed Meeting in readiness for the amended Open Meetings Act that went into effect on January 1, 2004. The Open Meetings amendment was for including the requirement that closed session minutes be recorded, gave the manner for access to the recordings, and the recordings destruction procedures.

The Village's resolution in addition to calling for all closed session to be recorded, calls for the tapes to be placed in sealed envelopes and secured in a safe place. It also requires that a written request to listen be given to the Clerk, that everyone attending the meeting to be given notice of the request to review the tapes, and for the request to be completed with 3 – 7 days after notice is given, that the person listening must have been present at the meeting, and that the Clerk and Administrator be present when the recording are listened to.

Following the Village's Resolution in 2003 and the adoption of the Open Meetings Act in 2004, there have been several changes in the Act that necessitate the Village update its Resolution. Rather than a detailed approach, it is easier to adhere to statute and simply adopt as a Policy the resolve to adhere to the Open Meetings Act. This would eliminate all time requirements and require that only one person attend the review, and eliminate the "must be present at the meeting" allowing newly elected or appointed members to review the recordings.

As the Village Board has clearly stated the desire to be transparent in all actions performed as duly elected officials that represent all residents of the Village, Staff is recommends the Act in its entirety be adopted and referenced as a policy of the Village.

The Open Meetings Act requires that there are approved written minutes for all meetings. All minutes whether in closed session or open are meant to be a **summary** of what occurred at a meeting. In fact, this is referenced in the Open Meetings Act. *Minutes, must reflect date, time and place of meeting, the member of the public body present, and a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.* You will often hear a clerk say, "if it wasn't in the motion it doesn't count". Although some may prefer verbatim minutes it is not recommended by Staff, nor by the Municipal Clerks Association

Discussion items are typically summarized with a little more detail as the need for additional detail is needed as typically either staff or developers are looking for a consensus on the direction that an item presented should move. Staff recommends that minutes continue to be prepared in this manner.

In the past the policy of the Village has been to rely on the opinion of legal as to which closed session minutes should be held confidential and which should be released. This opinion is then presented to the Board whenever action is being take to release minutes for the final decision. It is recommended by Staff that this policy remain in place.

These policies will apply to all Boards and Commission of the Village of Sugar Grove.

Staff is seeking direction on:

1. Adoption of the Open Meetings Act
2. Format of Meeting Minutes
3. Legal Review of Closed Session minutes prior to release

Attached is a draft resolution, the current resolution, and the portion of the Open Meetings Act that changes the wording of closed session review.

COST

There is no cost for discussion

RECOMMENDATION

That the Board by consensus Adopt a Resolution 20190702OM

Resolution 20190702OM

Adopting a Policy Resolving to Adhere to the Illinois Open Meetings Act

WHEREAS, the Village of Sugar Grove an Illinois Municipal Corporation is subject to the provision of the Illinois Open Meetings Act, 5 [LCS 120/1] et. seq (Open Meetings Act); and

WHEREAS, the Board of Trustees of the Village of Sugar Grove, Illinois, deems it necessary to adopt a policy on the keeping of verbatim records of all closed meetings of the Village of Sugar Grove, and all closed meetings of respective boards, commissions and departments; and

WHEREAS, the Board of Trustees desires to adhere to all requirements that pertain to a Municipal Corporation contained in the Open Meetings Act.

THEREFORE, be it resolved by the President and Board of Trustee of the Village of Sugar Grove, Illinois that:

Section 1

The Village Sugar Grove hereby adopts, as amended by time to time, the Open Meetings Act and that the Village Board and each and every board or commission appointed by or otherwise under the jurisdiction of the Village Board of Sugar Grove, Illinois shall also abide by said Open Meeting Act.

Section 2

All resolution or portions thereof or policies that are in conflict with this resolution are hereby repealed.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, on this 2nd day of July 2019.

P. Sean Michels, President of the Board of Trustees
of the Village of Sugar Grove, Kane County, Illinois

	Aye	Nay	Absent
Trustee Konen	_____	_____	_____
Trustee Koch	_____	_____	_____
Trustee Walter	_____	_____	_____
Trustee Montalto	_____	_____	_____
Trustee Herron	_____	_____	_____
Trustee Lendi	_____	_____	_____

ATTEST: _____

Cynthia L. Galbreath, Clerk

**A Resolution Adopting a Policy for the Keeping of a
Verbatim Record of Closed Meetings Under the Illinois Open Meeting Act**

WHEREAS, the Village of Sugar Grove an Illinois municipal corporation subject to the provision of the Illinois Open Meetings Act, 5 ILCS 120/1 et.seq; and

WHEREAS, the Illinois General Assembly has amended the Illinois Open Meetings Act pursuant to Public Act 93-523, which shall go into effect on January 1, 2004 requiring all public bodies to keep verbatim records of all closed meetings in the form of an audio or video recording; and

WHEREAS, the Board of Trustees of the Village of Sugar Grove, Illinois, after careful consideration, and in an effort to implement and comply with Public Act 93-523, deems it necessary to adopt a policy on the keeping of verbatim records of all closed meetings of the Village of Sugar Grove, and all closed meetings of respective boards, commissions and departments.

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF SUGAR GROVE, ILLINOIS THAT;

SECTION I: Effective on and after January 1, 2004, it is the policy of the Village Board of Sugar Grove, Illinois that the Village Board and each and every board or commission appointed by or otherwise under the jurisdiction of the Village Board of Sugar Grove, Illinois shall keep and maintain verbatim records of all closed meetings in the form of an audio recording, pursuant to and in accordance with the terms of the Illinois Open Meetings Act and the following policy:

A. The Village Clerk for the Village of Sugar Grove is hereby authorized to purchase reasonable audio recording devices in sufficient numbers so as to make such equipment readily available to the Village Board and each and every board or commission appointed by or otherwise under the jurisdiction of the Village Board of the Village of Sugar Grove, Illinois. The Village Clerk shall be deemed the custodian of such audio recording equipment and shall keep the same in good working order and shall keep on hand sufficient audio recording media for the recording of all closed meetings of the Village Board and such boards and commissions. The Village Clerk shall make such audio recording equipment available to the Village Board and each and every such board and commission for the purpose of keeping a verbatim record of all closed meetings in the form of an audio recording.

B. At the beginning of each closed meeting of the Village Board, board or commission, the clerk or secretary of such shall cause the audio recording device to record a verbatim record on an audio recording media of the closed meeting from beginning to end. At the conclusion of the closed meeting the clerk

or secretary shall remove the audio recording from the audio recording device and shall record on the face of the audio recording: (1) the date and time the closed meeting began and ended; and (2) the date and time the audio recording began and ended; and, (3) the initials of the clerk or secretary. The clerk or secretary shall then place the audio recording in an envelope and shall seal and deliver the sealed envelope to the Village Clerk. The Village Clerk shall sign the envelope and place the date and time the sealed envelope was so received. If the envelope is delivered in an unsealed fashion or otherwise exhibits evidence of tampering, the Village Clerk shall immediately notify the President, Chief of Police and Village Attorney, who shall commence an investigation into the matter. The Village Clerk shall file the envelope in a secure place to which only the Village Clerk shall have access. No other person shall have possession or access to the audio recording of closed meetings except in accordance with the provisions of this Policy.

C. Any duly elected President or Trustee of the Village Board, the Village Clerk, the Village Attorney and any duly appointed member of any board or commission may have access to inspect and review any audio recording of a closed meeting in which that person was actually present; provided; however, that the person requesting such inspection and review of any such audio recordings shall first give written notice to the Village Clerk requesting inspection and review of a specific audio recording of a closed meeting. The Village Clerk shall thereafter given written notice of the request for inspection and review to every person who was present to the closed meeting, the Village Attorney and the President. Not earlier than 3 business days, nor later than 7 business days after the receipt of the written request to inspect and review the audio recording, the person requesting such inspection and review shall meet with the Village Clerk and the Village Administrator. The Clerk shall retrieve the sealed envelope from the secure files, and in the presence of the Village Administrator and the person requesting the review of the audio recording, the Village Clerk shall break the seal of the envelope. The recording shall be reviewed in the presence of the person requesting such inspection and review of the audio recording, the Village Clerk and the Village Administrator. At the conclusion of the review of the audio recording, the clerk shall replace the audio recording in to the envelope and reseal the envelope and shall record on the envelope the date and time the audio recording was returned to the envelope and resealed and shall sign the envelope. The person requesting the inspection and review of the audio recording and the Village Administrator shall likewise sign the resealed envelope. The resealed envelope shall then be returned to the custody of the Clerk. No audio recording of any closed meeting shall be reproduced in any manner whatsoever.

D. The audio recording of any closed meeting shall not be released to and shall not be reviewed or inspected by any non-participant of the closed meeting; provided, however that if a bona fide and duly executed order of a court of competent jurisdiction is served upon the Village Clerk and such order is duly

reviewed and consented to by the Village Attorney, the Village Clerk shall personally deliver to the judge issuing such bona fide order the requested audio recording of the closed meeting for inspection.

E. The Village Clerk shall destroy the audio recording of closed meeting 18 months after the completion of the closed meeting, but only after (1) the Village Board or commission specifically approves the destruction of the particular audio recording and (2) the Village Board, board or commission has approved the written minutes of the closed session that meet the requirements of the Open Meetings Act.

SECTION II. This Policy shall go into effect on January 1, 2004

ADOPTED 16th day of December by the Corporate Authorities of the Village of Sugar Grove by roll call vote as follows:

	Aye	Nay	Absent
Bohler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wolf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Geary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

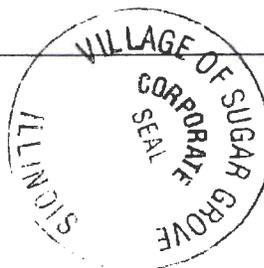
APPROVED by the President of the Village of Sugar Grove on this 18th day of December, 2003.

P. Sean Michels

P. Sean Michels, Village President

Cynthia L. Welsch

Cynthia L. Welsch, Acting Village Clerk



GENERAL PROVISIONS

(5 ILCS 120/) Open Meetings Act.

(5 ILCS 120/2.06) (from Ch. 102, par. 42.06)

Sec. 2.06. Minutes; right to speak.

(a) All public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording. Minutes shall include, but need not be limited to:

- (1) the date, time and place of the meeting;
- (2) the members of the public body recorded as either

present or absent and whether the members were physically present or present by means of video or audio conference; and

(3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

(b) A public body shall approve the minutes of its open meeting within 30 days after that meeting or at the public body's second subsequent regular meeting, whichever is later. The minutes of meetings open to the public shall be available for public inspection within 10 days after the approval of such minutes by the public body. Beginning July 1, 2006, at the time it complies with the other requirements of this subsection, a public body that has a website that the full-time staff of the public body maintains shall post the minutes of a regular meeting of its governing body open to the public on the public body's website within 10 days after the approval of the minutes by the public body. Beginning July 1, 2006, any minutes of meetings open to the public posted on the public body's website shall remain posted on the website for at least 60 days after their initial posting.

(c) The verbatim record may be destroyed without notification to or the approval of a records commission or the State Archivist under the Local Records Act or the State Records Act no less than 18 months after the completion of the meeting recorded but only after:

(1) the public body approves the destruction of a particular recording; and

(2) the public body approves minutes of the closed meeting that meet the written minutes requirements of subsection (a) of this Section.

(d) Each public body shall periodically, but no less than semi-annually, meet to review minutes of all closed meetings. At such meetings a determination shall be made, and reported in an open session that (1) the need for confidentiality still exists as to all or part of those minutes or (2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection. The failure of a public body to strictly comply with the semi-annual review of closed session written minutes, whether before or after the effective date of this amendatory Act of the 94th General Assembly, shall not cause the written minutes or related verbatim record to become public or available for inspection in any judicial proceeding, other than a proceeding involving an alleged violation of this Act, if the public body, within 60 days of discovering its failure to strictly comply with the technical requirements of this subsection, reviews the closed session minutes and determines and thereafter reports in open session that either (1) the need for confidentiality still exists as to all or part of the minutes or verbatim record, or (2) that the minutes or recordings or portions thereof no longer require confidential treatment and are available for public inspection.

(e) Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection or subject to discovery in any administrative or judicial proceeding other than one brought to enforce this Act. In the case of a civil action brought to enforce this Act, the court, if the judge believes such an examination is necessary, must conduct such in camera examination of the verbatim record as it finds appropriate in order to determine whether there has been a violation of this Act. In the case of a criminal proceeding, the court may conduct an examination in order to determine what portions, if any, must be made available to the parties for use as evidence in the prosecution. Any such initial inspection must be held in camera. If the court determines that a complaint or suit brought for noncompliance under this Act is valid it may, for the purposes of discovery, redact from the minutes of the meeting closed to the public any information deemed to qualify under the attorney-client privilege. The provisions of this subsection do not supersede the privacy or confidentiality provisions of State or federal law. Access to verbatim recordings shall be provided to duly elected officials or appointed officials filling a vacancy of an elected office in a public body, and access shall be granted in the public body's main office or official storage location, in the presence of a



records secretary, an administrative official of the public body, or any elected official of the public body. No verbatim recordings shall be recorded or removed from the public body's main office or official storage location, except by vote of the public body or by court order. Nothing in this subsection (e) is intended to limit the Public Access Counselor's access to those records necessary to address a request for administrative review under Section 7.5 of this Act.

(f) Minutes of meetings closed to the public shall be available only after the public body determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential, except that duly elected officials or appointed officials filling a vacancy of an elected office in a public body shall be provided access to minutes of meetings closed to the public. Access to minutes shall be granted in the public body's main office or official storage location, in the presence of a records secretary, an administrative official of the public body, or any elected official of the public body. No minutes of meetings closed to the public shall be removed from the public body's main office or official storage location, except by vote of the public body or by court order. Nothing in this subsection (f) is intended to limit the Public Access Counselor's access to those records necessary to address a request for administrative review under Section 7.5 of this Act.

(g) Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.

(Source: P.A. 99-515, eff. 6-30-16.)

(5 ILCS 120/2a) (from Ch. 102, par. 42a)

Sec. 2a. A public body may hold a meeting closed to the public, or close a portion of a meeting to the public, upon a majority vote of a quorum present, taken at a meeting open to the public for which notice has been given as required by this Act. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, provided each meeting in such series involves the same particular matters and is scheduled to be held within no more than 3 months of the vote. The vote of each member on the question of holding a meeting closed to the public and a citation to the specific exception contained in Section 2 of this Act which authorizes the closing of the meeting to the public shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting. Nothing in this Section or this Act shall be construed to