



LOCAL GOVERNMENT HANDOUT: VOTING

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Voting on motions, resolutions or ordinances by local government members is not as simple as one might think. There are restraints on how to vote, recording the votes, and the number of votes required for passage.

RECORDING VOTES

To begin with, the law¹ requires that the final vote on any ordinance or resolution must show:

- The name of the member and
- How he or she voted

This means that the minutes must disclose more than the usual “the motion was passed unanimously”. For instance, in 1998 the town of Madison passed a zoning ordinance and the minutes recited that all members were present at the beginning of the meeting and that the ordinance carried unanimously. The Virginia Supreme Court invalidated the ordinance² because the minutes did not disclose (a) whether any member abstained and (b) if any member was absent when the vote was taken. Note that even if the minutes disclosed at the beginning of the meeting that all members were present, by the time the vote was taken one or more may have been absent.

VOICE VOTES

Virginia allows voice votes³ unless otherwise provided by law. Any member may, however, call for a roll call vote. **Caution:** A voice vote may not satisfy the requirements mentioned under recording of votes unless the clerk is very careful and precise in writing the minutes.

ROLL CALL VOTE

This is the safest procedure, guaranteeing that each member’s vote is disclosed and recorded.

SECRET BALLOT VOTING

Secret ballot voting by public bodies is not allowed in Virginia.⁴

MAJORITY OF MEMBERS PRESENT AND VOTING

Virginia law provides that all ordinances⁵ and questions⁶ may be adopted by majority vote of those present and voting, unless another method is required by the Virginia Constitution or general law.

MAJORITY OF ALL MEMBERS

There must be a recorded vote of a majority of all elected members for:

- Appropriations exceeding \$500⁷
- The issuance of bonds⁸
- To petition for a court order requiring a referendum to repeal a town charter⁹
- To establish a retirement system,¹⁰
- To borrow money,¹¹ or
- Impose taxes in a county or city¹¹

IMPOSING TAXES IN TOWNS – CONFUSION OF LAW

- One law seems to require a majority vote of all members,¹² but
- Another requires a 2/3 vote of the council¹³

WATER OR WASTE AUTHORITIES

The laws governing Water or Waste Authorities requires a majority vote of all members of the Authority for any and all matters.¹⁴

3/4 OF ALL MEMBERS (TOWNS AND CITIES)

Virginia law provides that the sale of public properties or franchises requires a 3/4 vote of all members.¹⁵ This applies only to towns and cities.

CONCLUSION

If a voice vote is used the minutes should read something like this:

“Mr. Slick moved to pass the ordinance on taxes read aloud at the meeting and the motion was seconded by Mr. Weird. It passed with Messrs. Slick, Weird, Nuts and Goofus voting for it and Ms. Confused abstaining.”

It is probably easier to have a roll call vote.

¹ § 15.2-1427

² 255 Va. 429

³ § 15.2-1427

⁴ AG 82-83 p. 723; AG 87-88 p.34

⁵ § 15.2-1427

⁶ § 15.2-1420

⁷ Constitution of Virginia, Article 7, § 7; § 15.2-1428

⁸ § 15.2-2636

⁹ § 15.2-3702

¹⁰ § 51.1-801

¹¹ §15.2-1428

¹² §15.2-1428

¹³ §15.2-1427

¹⁴ §15.2-5113

¹⁵ Constitution of Virginia, Article 7, § 9; § 15.2-2100