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Memo

To: Bryan Gruesbeck, Manager
From: Paul S. Messick, Jr.
Date: January 23, 2014
Re: Minutes

The law requires that the Town keep full and accurate minutes of Board proceedings which shall be open for inspection by the public. NCGS § 160A-72; NCGS §143-318.10(e).The responsibility for this obligation falls upon the Clerk. “There shall be a city clerk who shall “.... keep a journal of the proceedings of the council.... “NCGS §160A-171. The town acts through the Board of Commissioners and the minutes are the official record of its actions. The full and accurate requirement is important because the Board speaks only through its minutes and the contents may not be changed or altered or their meaning explained by reference to other evidence.

Until recently and at least since the early 19th century, Pittsboro’s town minutes were in a written format that accurately reflected actions taken by the Board, but not a verbatim transcript of the proceedings. “Full and accurate” does not

generally mean that the clerk must make a verbatim transcript of a meeting's proceedings. According to Fleming Bell at the SOG, the minutes must record the results of each vote taken by the governing board, and they should also show the existence of any condition that is required before a particular action may validly be taken- like the existence of a quorum. In fact, as Bell also points out, a review of verbatim minutes could be counterproductive in that "the board may find itself spending an excessive amount of time at its next meeting discussing the details of this record".

NCGS §143-318.10(e) allows minutes to be in written form, or, at the option of the public body, in the form of sound or video and sound recordings. A few years ago the Pittsboro Board decided to record its official meetings and to require a verbatim transcript of the proceeding as a part of its written minutes. At the time the decision was made the Town had the services of a retired city clerk who transcribed the tape for Ms. Lloyd. For more than a year such transcription services have not been readily available at reasonable cost and Ms. Lloyd has spent a considerable amount of her time in preparing each transcript for the minutes. I am not sure of the original reasoning for the transcription, but it may need to be re-examined in light of the administrative issues involved.

From a legal standpoint, the verbatim transcript minutes add nothing to the legal effect of any legislative action taken by the Board. The discussion among Board members or the public cannot be used as legislative history in the construction of any such action. It does not add to or detract from the action taken. It is not necessary and may actually confuse the record. Any legislative action taken by the Town has to

be derived from some authority bestowed by the General Assembly and any discussion is unfortunately not relevant to its legitimacy. It may be of some benefit to explain rationale to the public, but not to a judge.

If there is any further information needed, please let me know.