

Rules of Procedure

Ashe County Board of Commissioners

Joseph S. Ferrell

Institute of Government

The University of North Carolina at Chapel Hill

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(Amendment made 02/06/12 to Rule 9, section c on page 9)

(Amendment made 08/17/15 to Rule 9, section a & c on page 9)

(Rule 3. Closed Sessions updated on 10/13/15)

(Amendment made 02/20/17 to Rule 9, section b on page 9)

I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Board of Commissioners of Ashe County at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

Comment: On the whole, rules of procedure of a governing board are intended to govern formal meetings of the board where it will exercise any of its executive and legislative powers. These rules fulfill that purpose and also are designed to ensure board compliance with the Open Meetings Law, G.S. 143-318.9 through -318.18, which applies to any gathering of a majority of the board to discuss public business. The rules also apply to informal work sessions or committee meetings where public business is discussed but no official action is taken.

II. Open Meetings

Rule 2. Meetings to Be Open

(a) It is the public policy of North Carolina and of Ashe County that the hearings, deliberations, and actions of this board and its committees be conducted openly.

(b) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Ashe County Board of Commissioners shall be open to the public and any person is entitled to attend such a meeting.

Comment: See G.S. 143-318.10(a).

(c) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the board.

Comment: See G.S. 143-318.10(d). The Open Meetings Law provides that a social meeting or other informal assembly or gathering together of the members of the board does not constitute an official meeting unless it is "called or held to evade the spirit and purposes" of the laws requiring meetings to be open.

Rule 3. Closed Sessions

(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

1. To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
2. To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
3. To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
4. To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations, or to discuss matters relating to military installation closure or realignment. An action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
5. To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
6. To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of

the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in open meeting.

7. To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
8. To formulate plans by a local board of education relating to emergency response to incidents of school violence or to formulate and adopt the school safety components of school improvement plans by a local board of education or a school improvement team.
9. To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.

(b) Calling a Closed Session. – A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a) (1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subsection (a) (3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

(c) Unless the motion to go into closed session provides otherwise, the county manager, county attorney, and clerk to the board may attend the closed session. No other person may attend the closed session unless specifically invited by majority vote of the board.

Comment: The Open Meetings Law does not address this point. Although they have no legal right to attend a closed session, the manager, attorney, and clerk to the board are officers of the board itself and most boards will want them present at all meetings. All other persons should be excluded unless their presence is reasonably necessary to facilitate the board's deliberations on the matter before it.

III. Organization of the Board

Rule 4. Organizational Meeting

- (a) **Even-numbered Years.** The board shall hold an organizational meeting at its regular meeting place on the first Monday in December of each even-numbered year. The agenda for this organizational meeting shall include induction of newly elected members of the board of county commissioners and other elected county officials and organization of the board for the ensuing year. The county manager shall call the meeting to order and shall preside until a chair is elected. If they have not already been sworn and inducted into office, the newly elected members of the board shall take and subscribe the oath of office as the first order of business. As the second order, the board shall elect a chair and vice-chair from among its members.
- (b) As the third and fourth orders of business, the board may appoint a clerk and an attorney.

(b) **Odd-numbered Years.** At the first regular meeting in December of each odd-numbered year, the first order of business shall be approval of the minutes of the previous meeting. The second order of business shall be election of the chair and vice-chair for the ensuing year. The third and fourth orders of business may be appointment of the clerk and county attorney.

Comment: This rule incorporates the requirements of G.S. 153A-26 concerning the times for organizational meetings and the qualifications of new members and the requirements of G.S. 153A-39 concerning the election of the chair and the vice-chair.

G.S. 153A-26 provides that the oath of office is that prescribed by Article VI, Section 7, of the North Carolina Constitution (see also G.S. 11-6 and G.S. 11-7) and may be administered by any person authorized by law to administer oaths. The written statement of the oath shall be signed by each new member and filed with the clerk to the board of commissioners. The statute also provides that a new member who cannot be present at the organizational meeting may take and subscribe the oath later.

Who presides at the organizational meeting until the new chair is elected is a question that is often resolved by local custom. In many counties the clerk to the board or county manager presides, while in others the old chair presides until the new chair is elected.

Rule 5. Election of the Chair

The chair of the board shall be elected annually for a term of one year and shall not be removed from the office of chair unless he or she becomes disqualified to serve as a member of the board.

Comment: G.S. 153A-39 provides for the election of a chair and states that he or she is chosen "for the ensuing year." This rule is inappropriate for counties in which the chair is chosen by some other method pursuant to a local act of the General Assembly.

IV. Regular and Special Meetings

Rule 6. Regular and Special Meetings

(a) Regular Meetings. The board shall hold a regular meeting on the [first] and [third] [Monday] of each month. If a regular meeting day is a holiday on which county offices are closed, the meeting shall be held on the next business day or such succeeding day as may be specified in the motion adjourning the immediately preceding regular meeting. Regular meetings shall be held at the Ashe County Courthouse and shall begin at 9:00 a.m. The board may change the place or time of a particular regular meeting or all regular meetings within a specified time period by resolution adopted, posted, and noticed no less than seven days before the change takes effect. Such a resolution shall be filed with the clerk to the board and posted at or near the regular meeting place, and copies shall be sent to all persons who have requested notice of special meetings of the board.

Comment: See G.S. 143-318.12(b)(1) and G.S. 153A-40(a). Any permanent change in the schedule of regular meetings must be adopted not later than ten days before the first meeting to which the new schedule applies. Also, G.S. 153A-40 requires the board of county commissioners to meet at least once a month. The notice requirements of the proposed rule are somewhat broader than those required by law.

(b) Special Meetings. The chair or a majority of the members of the board may at any time call a special meeting of the board by signing a notice stating the time and place of the meeting and the subjects to be considered. The person or persons who call the meeting shall cause the notice to be posted on the [principal bulletin board of the county or the door of the regular meeting place if there is no principal bulletin board] and delivered to the chair and all other board members or left at the usual dwelling place of each member at least 48 hours before the meeting. In addition, the notice shall be mailed or delivered to individual persons and news media organizations who have requested such notice as provided in subsection (d), below. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or those who are not present have signed a written waiver.

Comment: See G.S. 153A-40(a) and G.S. 143-318.12(b)(2).

(c) Emergency Meetings. If a special meeting is called to deal with an unexpected circumstance that requires immediate consideration by the board, the notice requirements of this rule do not apply. However, the person or persons who call an emergency meeting shall take reasonable action to inform the other members and the public of the meeting. Local news organizations that have requested notice of special meetings as provided in subsection (d), below, shall be notified of such emergency meetings by the same method used to notify board members. Only business connected with the emergency may be discussed at the meeting.

Comment: See G.S. 153A-40(b) and G.S. 143-318.12(b)(3).

(d) Sunshine List. Any individual person and any newspaper, wire service, radio station, and television station may file with the clerk to the board of commissioners a written request for notice of all special meetings of the board.

Comment: See G.S. 143-318.12(b)(2).

(e) Work Sessions and Committee Meetings. The board may schedule work sessions, committee meetings, or other informal meetings of the board or a majority of the members of the board at such times and with respect to such subject matter as may be established by resolution or order of the board. A schedule of any such meetings that are held on a regular basis shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held on a regular schedule are subject to the same notice requirements as special board meetings.

Comment: The Open Meetings Law requires that any “official meeting” at which a majority of the board deliberates on public business must be open to the public and notice must be given. The last sentence of this rule embodies that principle. The rule goes beyond the Open Meetings Law in requiring a published schedule of work sessions or committee meetings held on a regular basis.

G.S. 143-318.13(a) provides that if the board holds any regular, special, emergency, or other official meeting by use of conference telephone or other electronic means, the clerk shall provide a location and means whereby members of the public may listen to the meeting and notice of the meeting shall specify that location.

Rule 7. All Meetings within the County

All meetings shall be held within the boundaries of Ashe County except as otherwise provided herein.

1. A joint meeting with the governing board of any other political subdivision of this state or any other state may be held within the boundaries of either subdivision as may be stated in the call of the meeting. At any such joint meeting, this board reserves the right to vote separately on all matters coming before the joint meeting.

2. A special meeting called for the purpose of considering and acting upon any order or resolution requesting members of the General Assembly representing all or any portion of this county to support or oppose any bill pending in the General Assembly or proposed for introduction therein may be held in Raleigh or such other place as may be stated in the call of the meeting.

Comment: See G.S. 153A-40(c). That statute also speaks of two other categories of gatherings that may be held outside the boundaries of the county: retreats and meetings with the legislative delegation representing the county in the General Assembly. The statute expressly forbids the board to take any official action at any such meetings, so they are not mentioned in the proposed rule. Remember, however, that such meetings are covered by the Open Meetings Law if a majority of the board is present and “deliberates” on public business.

Rule 8. Broadcasting and Recording Meetings

(a) Except as provided in this rule, any radio or television station is entitled to broadcast all or any part of an official meeting of the board that is required to be open to the public. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) Any radio or television station wishing to broadcast any portion of an official meeting of the board shall so notify the county manager no later than [twenty-four hours] before the meeting. If the number of requests or the quantity and size of the necessary equipment is such that the meeting cannot be accommodated in the designated meeting room and no suitable alternative site in [the county office building] is available, the county manager may require the news media either to pool equipment and personnel or to secure and pay the costs of an alternative meeting site that is mutually agreeable to the board and the media representatives.

Comment: See G.S. 143-318.14. Notwithstanding the proposed rule, the board probably could not exclude broadcast media reporters simply because they failed to give the suggested twenty-four-hour notice.

V. Agenda

Rule 9. Agenda

(a) The [clerk to the board] shall prepare the agenda for each regular, special, and emergency meeting. A request to have an item of business placed on the agenda for a regular meeting and accompanying agenda packet information must be received by

8:00 a.m. on the Tuesday prior to the meeting. Any board member may, by a timely request, have an item placed on the agenda. **(The following wording was added on 08/17/15.)** Emergency items may be submitted by Board members for addition to the agenda and voted on by the Board during the agenda item "*Adoption of the Agenda*". Items for the agenda that are not emergency items may be added to the agenda only by a majority vote of the commissioners; otherwise they may be discussed and considered by the Board for addition to the next agenda during agenda item "*Commissioner Comments*".

(b) The agenda packet shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be delivered to each member of the board at least ~~[twenty-four hours]~~ **by noon on the Wednesday (Amendment made on 02/20/17.)** before the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each board member or left at his or her usual dwelling.

(Item c was deleted on 08/17/15.) ~~(c) Before any item can be added and/or deleted to the regular meeting agenda, it must be discussed and agreed upon by consensus at the prior work session and by a vote at the regular session. (Amendment made on 02/06/12.)~~

Comment: Because of the increased volume and complexity of the matters they must consider, nearly all boards use an agenda. Some boards use an agenda only to organize the material they must consider and to give themselves an opportunity to study the issues before they meet. These boards generally allow last-minute additions to the agenda by general consent. This rule takes that approach. Other boards use their agenda to control the length of their meetings. Often a board that uses its agenda for this purpose will hold a work session before the regular meeting to ask questions and thoroughly explore the proposals that must be voted on at the regular meeting. Generally these boards take a stricter approach and do not allow late additions to the agenda unless an emergency exists.

The manager may find it convenient to maintain a mailing list of interested parties who wish to receive a copy of the agenda regularly.

Rule 10. Informal Public Comments

The [clerk to the board] shall include on the agenda of each regular meeting a period of up to [thirty minutes] for comments or questions from members of the public in attendance. The chair will first recognize individuals or groups who have made a prior appointment to be heard, and then may recognize others, subject to available time. The chair may specify the time allotted to each speaker. After the time set aside for informal public comments has expired, the chair will recognize further speakers only upon motion duly made and adopted.

Comment: The board may decide as a matter of general policy to set aside part

of each meeting for individuals or groups to address the board. The rule allows any individual or group to get on the agenda but lets the board decide whether there is time to hear its comments.

Rule 11. Order of Business

At regular meetings, the board shall proceed to business in the following order:

1. Approval of the minutes of the previous meeting.
2. Approval of the agenda.
3. Scheduled public hearings.
4. Informal public comments.
5. Administrative reports.
6. Committee reports.
7. Unfinished business.
8. Introduction of ordinances, resolutions, and orders.
9. Other new business.

Without objection, the chair may call items in any order most convenient for the dispatch of business.

Comment: As a matter of courtesy, by general consent, those items that require the participation of nonmembers, such as members of the public and administrative officials, may be considered first.

VI. Conduct of Debate

Rule 12. Powers of the Chair

The chair shall preside at all meetings of the board. A member must be recognized by the chair in order to address the board. The chair shall have the following powers:

1. To rule on points of parliamentary procedure, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To call a brief recess at any time;
4. To adjourn in an emergency.

Comment: This rule replaces the question of order and appeal in *Robert's Rules of Order* (hereinafter referred to as *RRO*). Here, the chair's authority increases: his or her decisions regarding decorum¹⁰ in debate and rules of parliamentary

procedure are final and cannot be appealed to the membership. In *RRO*, a recess can be taken only on a motion and vote by the members. This rule gives the chair authority to declare a recess when necessary to “clear the air” and thus hold friction among the members to a minimum.

Rule 13. Presiding Officer When the Chair Is in Active Debate

If the chair wishes to become actively engaged in debate on a particular proposal, he or she shall designate another board member or [a staff member] to preside. The chair shall resume the duty to preside as soon as action on the matter is concluded.

Comment: Good leadership depends, to a certain extent, on not taking sides during a debate. On a small board this may not always be feasible or desirable; yet an unfair advantage accrues to the side whose advocate controls access to the floor. This rule is designed to ensure evenhanded treatment to both sides during a heated debate. Ordinarily the chair should call on the vice-chair to preside if he or she finds it necessary to step aside. If all board members want to continue to actively participate in the debate, the clerk to the board or some other staff member may be asked to preside temporarily.

Rule 14. Action by the Board

The board shall proceed by motion. Any member, including the chair, may make a motion.

Comment: If the board prefers that the chair not make motions, the chair may invite another member to make a motion by saying “The Chair will entertain a motion that. . . .”

Rule 15. Second Required

A motion shall require a second.

Comment: The philosophy underlying the requirement of a second is that if a proposal is not supported by at least two members, it is not worth the time it would take to consider the matter. This concept is not applicable to small boards. One member of a five-member board is 20 percent of the membership. Larger bodies would not hesitate to discuss any matter that had the support of such a large proportion of the members.

Rule 16. One Motion at a Time

A member may make only one motion at a ₁₁ time.

Rule 17. Substantive Motion

A substantive motion is out of order while another substantive motion is pending.

Comment: This rule sets forth the basic principle of parliamentary procedure: distinct issues are considered and dealt with one at a time, so a new proposal may not be put forth until action on the preceding one has been concluded.

RRO does not refer to substantive motions as such; instead it uses such adjectives as “main” or “principal.” Here, a substantive motion is any motion other than the procedural motions listed in Rule 20. The possible subject matter of a substantive motion coextends with the board’s legal powers, duties, and responsibilities. Indeed, since Rule 14 provides that the board shall proceed by motion, the substantive motion is the board’s exclusive mode of action. The procedural motions detailed in the following rules set forth the board’s various options in disposing of substantive motions.

Rule 18. Adoption by Majority Vote

A motion shall be adopted if approved by a majority of the votes cast, a quorum being present, unless an extraordinary majority is required by these rules or the laws of North Carolina.

Rule 19. Debate

The chair shall state the motion and then open the floor to debate, presiding over the debate according to these general principles:

1. The member making the motion or introducing the ordinance, resolution, or order is entitled to speak first.
2. A member who has not spoken on the issue shall be recognized before someone who has already spoken.
3. To the extent possible, the debate shall alternate between opponents and proponents of the measure.
4. No member shall speak more than twice on the main question, nor longer than [ten] minutes for the first speech and [five] minutes for the second speech; nor shall the member speak more than twice upon an amendment or procedural motion and then not longer than [five] minutes for the first speech and [two] minutes for the second speech.

Comment: The fourth principle, above, is similar to Rule 10 of the North Carolina House of Representatives. Not all boards will find it necessary or desirable to include this provision and those that do should give careful consideration to the time limits.

Rule 20. Procedural Motions

(a) In addition to substantive proposals, the procedural motions listed in subsection (b) of this rule, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

Comment: This rule substantially departs from *RRO*. Each procedural motion in *RRO* was reviewed to determine whether it was appropriate for use by a small board; substantial modifications and deletions were the result. The following enumeration of procedural motions is exhaustive; if a procedural option is not on the list, it is not available.

(b) In order of priority (if applicable), the procedural motions are:

Comment: While a substantive motion is out of order if another substantive motion is pending, several procedural motions can be entertained in succession without necessarily disposing of the immediately pending one. The order of the list below establishes which procedural motion yields to which—for example, a move to defer consideration (6) may be made while a move to refer to committee (9) is pending because (6) ranks higher on the list.

1. *To Adjourn.* The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.

Comment: This motion differs from the *RRO* motion in several respects. In *RRO*, it is not debatable or amendable and can be made at any time, even interrupting substantive deliberations. In view of the small number of members and the available procedures to limit debate, this rule allows debate and amendment of the motion to adjourn but allows the motion to adjourn only when action on a pending matter is over. The motion to defer consideration or to postpone to a certain time or day may be used if the board wants to adjourn before completing action on a matter.

2. *To Take a Recess.*

Comment: *RRO* does not allow debate on this motion, but since the number of members is small and procedures to limit debate are available, this rule allows debate on the motion. As in *RRO*, the motion is in order at any time. Note that under Rule 12, the chair also has the power to call a brief recess.

3. *To Call to Follow the Agenda.* The motion must be made at the first reasonable opportunity or it is waived.

Comment: This motion differs from the call for the orders of the day in *RRO*: it may be debated and must be made when an item of business that deviates from the agenda is proposed or the right to insist on following the agenda is waived for that item.

4. *To Suspend the Rules.* The motion requires a quorum and a unanimous vote from all members present.

Comment: This motion differs from *RRO* in that it is debatable and amendable and the number of necessary votes is a quorum rather than two-thirds. Thus if a board has five members, three members (a quorum) must vote for the motion; if only three members are present at a particular meeting, all three must vote for the motion in order to adopt it. This motion is in order when the board wishes to do something that it may legally do but cannot without violating its own rules. The procedure will pose some problems for a three-member board, as it can be used to prevent one member from participating in the board's deliberations. Frequent use of the motion to prevent one member from presenting proposals to the board or from speaking on an issue before the board is of doubtful legality. A three-member board may decide to require a unanimous vote to suspend the rules.

5. *To Divide a Complex Motion and Consider It by Paragraph.*

Comment: This motion is the same as the division of a question and consideration by paragraph in *RRO* except that it is debatable.

6. *To Defer Consideration.* A substantive motion whose consideration has been deferred expires one hundred days thereafter, unless a motion to revive consideration is adopted.

Comment: This motion, which replaces the motion to lay on the table in *RRO*, was renamed to avoid confusion. It allows the board temporarily to defer consideration of a proposal. It differs from *RRO* in that it may be debated and amended, and in that a motion that has been deferred dies if it is not taken up by the board (via a motion to revive consideration) within one hundred days of the vote to defer consideration. (In *RRO* a motion laid on the table dies at the end of that particular session of the assembly.) One hundred days is the suggested period of time for deferring consideration because it is also the time within which a proposed ordinance must be enacted (see Rule 27).

7. *To Call the Previous Question.* The motion is not in order until every member has had one opportunity to speak.

Comment: This motion differs from the motion in *RRO*. The *RRO* motion is always in order, is not debatable or amendable, and requires a two-thirds vote for adoption. Thus, it may be used to end discussion of a proposal before every member has had an opportunity to speak. Such a device may be necessary to preserve efficiency in a large assembly, but with a small board, allowing every member at least one opportunity to speak before closing debate strikes a better balance between efficiency and fairness. After every member who wishes to speak has done so, debate may be ended by majority vote. The second revised edition of these *Rules of Procedure for the Board of County Commissioners* also suggested that the call for the previous question may not be made before there had

been at least twenty minutes of debate. That provision is deleted from this edition in favor of the suggested principle included in Rule 19 concerning limitations on individual speeches at various steps in debate.

8. *To Postpone to a Certain Time or Day.*

Comment: This motion allows the board to defer consideration to a specified time or day and is appropriate when more information is needed or the deliberations are likely to be lengthy.

9. *To Refer to Committee.* [Sixty] days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire board, regardless of whether the committee has reported the matter back to the board.

Comment: This motion is identical with the motion of the same name in *RRO* except that the introducer's right to compel consideration by the full board after a specified period of time prevents using the motion to defeat a proposal by referring it to a committee that intends to take no action on it. If the board does not use committees, this rule is unnecessary.

10. *To Amend.* An amendment to a motion must be germane to the subject of the motion, but it may not achieve the opposite effect of the motion. There may be an amendment to the motion and an amendment to an amendment, but no further amendments. Any amendment to a proposed ordinance shall be reduced to writing.

Comment: This motion is identical to the motion of the same name in *RRO* except for the requirement for written amendments to proposed ordinances.

11. *To Revive Consideration.* The motion is in order at any time within [one hundred] days of a vote deferring consideration of it. A substantive motion on which consideration has been deferred expires [one hundred] days after the deferral, unless a motion to revive consideration is adopted.

Comment: This motion replaces the motion to take up from the table in *RRO* and was renamed in order to avoid confusion. This motion may be debated and amended; the motion in *RRO* may not. If the motion to revive consideration is not successful within [one hundred] days of the original deferral date, the substantive motion expires. The subject matter of the motion may be brought forward again by a new motion.

12. *To Reconsider.* The motion must be made at the same meeting at which the original vote was taken, and by a member who voted with the prevailing side. The motion cannot interrupt deliberation on a pending matter but is in order at any time before adjournment.

Comment: According to *RRO*, the motion may be made at the same meeting or on the next legal day and may interrupt deliberation on another matter. The rule does not allow reconsideration of a vote once the meeting adjourns. A member wishing to reverse an action taken at a previous meeting may make a motion or introduce a new ordinance having the opposite effect.

13. *To Prevent Reconsideration for [Six] Months.* The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires a vote equal to a quorum and is valid for six months or until the next regular election of county commissioners, whichever occurs first.

Comment: This clincher motion prevents the same motion from being continually introduced when the subject has been thoroughly considered. Because this motion curtails a member's right to bring a matter before the board, a vote equal to a quorum is required. As with every other motion, a clincher may be dissolved by a motion to suspend the rules. Six months is merely a suggested time; the board may shorten or lengthen the time as it sees fit. In order to give a new board a clean slate, the motion is not effective beyond the next regular election.

Rule 21. Renewal of Motion

A defeated motion may not be renewed at the same meeting.

Rule 22. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before the chair puts the motion to a vote.

Comment: *RRO* provides that once a motion has been stated by the chair for debate, it cannot be withdrawn without the assembly's consent. Such a procedure is unnecessary for a small board.

Rule 23. Duty to Vote

It is the duty of each member to vote unless excused by a majority vote according to law. The board may excuse members from voting on matters involving their own financial interest or official conduct. A member who wishes to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative.

Comment: G.S. 153A-44 provides that board members have a duty to vote, but does not state the remedy for failure to do so. Many boards record all members as

voting yes on any matter put to a vote unless members audibly vote no. A few boards reverse the presumption and record members as voting no unless they audibly vote yes.

Rule 24. Prohibition of Secret Voting

No vote may be taken by secret ballot. If the board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, at which time they may be destroyed.

Comment: See G.S. 143-318.13(b).

Rule 25. Action by Reference

The board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda and documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

Comment: See G.S. 143-318.13(c).

Rule 26. Introduction of Ordinances, Resolutions, and Orders

A proposed ordinance shall be deemed introduced at the first meeting at which it is on the agenda, regardless of whether it is actually considered by the board, and its introduction shall be recorded in the minutes.

Comment: G.S. 153A-45 provides that an ordinance may not be finally adopted at the meeting at which it is introduced except by unanimous vote. The definition of introduction therefore is important because it makes a difference in the number of votes required to adopt an ordinance. No North Carolina judicial decisions have addressed the question of when an ordinance is considered to have been introduced. The rule assumes that a measure is introduced when it has been formally presented to the board through an approved agenda. An alternative would be to consider introduction to have taken place only when the board begins to consider the measure, in which case this rule should be revised to read as follows: "A proposed ordinance shall be deemed introduced at the first meeting where it is actually considered by the board."

Rule 27. Adoption, Amendment, or Repeal of Ordinances

To be adopted at the meeting where first introduced, an ordinance or any action with the effect of an ordinance, or any ordinance amending or repealing an existing ordinance (except the budget ordinance, a bond order, or another ordinance requiring a public hearing before adoption) must be approved by all members of the board of commissioners. If the proposed measure is approved by a majority of those voting but not by all the members of the board, or if the measure is not voted on at the meeting where introduced, it shall be considered at the next regular meeting of the board. If the proposal receives a majority of the votes cast at the next meeting or within one hundred days of being introduced, it is adopted.

Comment: See G.S. 153A-45. See also G.S. 153A-46 for requirements for granting franchises.

Rule 28. Quorum

A majority of the board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members present, he or she shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

Comment: See G.S. 153A-43. Compelling the attendance of a member by ordering the sheriff to take him or her into custody is an extraordinary remedy intended for use when a member obstinately refuses to attend meetings for the purpose of preventing action on a proposal. If the board contemplates using this power, it might be wise to give the absent members notice that their attendance is required by the majority and may be compelled in this manner.

Rule 29. Public Hearings

Public hearings required by law or deemed advisable by the board shall be organized by a special order, adopted by a majority vote, setting forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted to each speaker and designating representatives to speak for large groups. At the appointed time, the chair shall call the hearing to order and preside over it. When the allotted time expires, the chair shall declare the hearing ended and the board shall resume the regular order of business.

Comment: G.S. 153A-52 provides that public hearings may be held anywhere

within the county and gives the board authority to adopt rules governing the hearings.

Rule 30. Quorum at Public Hearings

A quorum of the board shall be required at all public hearings required by law.

Comment: G.S. 153A-52 implies that a quorum of governing board members is necessary for a public hearing by providing that a hearing shall be deferred to the next regular meeting if a quorum is not present at the originally scheduled time. However, if the board decided to hold a public hearing not required by law to gather a consensus of public opinion on an issue, the hearing could be held at several different sites, with a few members at each site.

Rule 31. Minutes

Minutes shall be kept of all board meetings.

Comment: G.S. 143-318.10(e) requires all public bodies to keep “full and accurate” minutes of all official meetings, including closed sessions. Minutes of closed sessions must be a “general account . . . so that a person not in attendance would have a reasonable understanding of what transpired.” Closed session minutes may be withheld from public inspection “so long as public inspection would frustrate the purpose” of the session.

Rule 32. Appointments

The board shall use the following procedure to make appointments to fill vacancies in the board itself or in other boards and public offices over which the board has power of appointment.

The chair shall open the floor to nominations, whereupon the members shall put forward and debate names of possible appointees. When debate ends, the chair shall call the roll of the members, and each member shall vote. The votes shall not be tallied until each member has voted.

Each vote shall be decided by a majority of the valid ballots cast (a majority is determined by dividing the number of valid ballots cast by two and taking the next highest whole number). It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so does not invalidate that member’s ballot.

Rule 33. Reference to *Robert's Rules of Order*

To the extent not provided for in, and not conflicting with the spirit of, these rules, the chair shall refer to *Robert's Rules of Order* to resolve procedural questions.

Comment: *RRO* was designed to govern a large legislative assembly, and many of its provisions may be inappropriate for small boards. Nevertheless, it is the best source of parliamentary procedure; care should simply be taken to adjust *RRO* to meet the needs of small governing boards.

Chairman

Attest:

Ashley G. Honeycutt
Clerk to the Board