

RULES OF PROCEDURE FOR THE DURHAM COUNTY BOARD OF COMMISSIONERS

INTRODUCTION

The following Rules of Procedure were developed for use by the Durham County Board of Commissioners. They incorporate general principles of parliamentary procedure and the applicable laws of North Carolina. The Rules were designed with the following guidelines in mind:

1. The Board must act as a body;
2. The Board should proceed in the most efficient manner possible;
3. The Board must act by at least a majority vote;
4. Every member must have an equal opportunity to participate in decision-making;
5. The Board must apply the rules of procedure consistently;
6. When situations occur which are not explicitly covered by these Rules and cannot be resolved through reasonable inference from or interpretation of these Rules, then Robert's Rules of Order shall be followed.

It is the policy of this Board that all hearings, deliberations, and actions be conducted fairly, openly, and consistent with the applicable Statutes of North Carolina.

I. YOUR COUNTY COMMISSIONERS

Durham County has a five-(5) member Board of Commissioners which is elected at-large for four-(4) year terms. The Board sets policies and enacts ordinances which are administered by the County Manager and his/her staff.

II. REGULAR MEETINGS

The Board shall hold a regular meeting on the second and fourth Monday of each month. The meeting shall be held at the Durham County Government Administrative Complex, 2nd floor in the Commissioners' Meeting Room, 200 East Main Street, Durham, NC and shall begin at 7:00 pm (meetings may begin earlier in some circumstances) and end not later than 11:00 pm, unless extended by majority vote to 12:00 midnight. An extension of the meeting beyond 12:00 midnight shall require a unanimous vote of the Board. If the Board votes to extend the meeting beyond midnight, then the Board shall also vote to determine those items remaining on the agenda on which a vote will be taken.

III. SPECIAL MEETINGS

The Chair or a majority of the members of the Board may at any time call a special meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. Notice of the meeting shall be delivered to each Board member and posted at the County Administrative building at least 48 hours before the meeting.

If a special meeting is called to deal with an emergency, the notice requirements of this rule do not apply. However, the person or persons who call an emergency special meeting shall take reasonable action to inform the other members and the public of the meeting. Only business connected with the emergency may be discussed at the meeting.

At the first meeting in December following an election of County Commissioners, all the newly elected members of the Board shall take and subscribe the oath of office. At the first meeting in December of each year, as the first order of business, the Board, with the County Attorney presiding shall elect a chair. The Board will immediately thereafter elect a vice-chair. These officers shall not otherwise be removed from office unless disqualified as a member of the Board. The second order of business for the first meeting in December of each year shall be for the Board to approve the Durham County Public Official performance bonds.

IV. AGENDA

The Chair, Vice Chair, County Manager, County Attorney, County Clerk, Budget Director, General Managers, and Chief of Staff (*Revised 1/23/17*) shall meet in advance the week (*Revised 08/11/2014*) the agenda is due to approve all agenda items for the upcoming meeting. The Manager shall recommend items for the consent agenda. Said items shall consist of routine business items which are not considered to be controversial, or items which have previously been discussed at a Worksession. Any item may be removed by a Commissioner or by a member of the public by signing up to speak on the item. Should any item on the consent agenda be removed from the consent agenda, the Chairman, in his/her discretion, may place the item at the end of the Agenda.

The Clerk to the Board shall prepare the agenda for the meeting. Agenda packages will be distributed by the end of the Wednesday preceding the meeting date. All agenda materials must be submitted to the Clerk to the Board on Friday, two weeks preceding the meeting date. Any board member, by a timely request, may have an item placed on the agenda for inclusion in the agenda package.

A complete copy of the agenda with attached material shall be available for public inspection as soon as distribution to Commissioners has been completed.

At least one copy of the complete agenda package shall be available for public inspection and

reference in the foyer area of the Chambers during the meeting, and shall be displayed on the screen outside of the Chambers (*Revised 08/11/2014*) The agenda shall also be available on the County's website on the Friday preceding the meeting.

Any member of the Board, the County Manager, or County Attorney may add any item to the Agenda at the beginning of the meeting by a majority vote of the Board.

All changes made to the agenda (removals and additions) shall be communicated to all commissioners. (*Added 08/11/2014*)

Time sensitive items may be added to the agenda by commissioners two days in advance of the meeting (noon Thursday). (*Added 08/11/2014*)

Each Agenda shall contain a "Public Charge" at the top of the Agenda, which shall read as follows:

The Board of Commissioners asks its members and citizens to conduct themselves in a respectful, courteous manner, both with the Board and fellow citizens. At any time, should any member of the Board or any citizen fail to observe this public charge, the Chairman will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chairman will recess the meeting until such time that a genuine commitment to the public charge is observed.

As a courtesy to others, please turn off cell phones during the meeting.

V. PUBLIC ADDRESS TO THE BOARD

The public may present a written petition to the Board by submitting it to the Clerk to the Board prior to any regular meeting of the Board or during normal business hours at the Clerk's Office. The Clerk shall forthwith make copies of the petition and forward it to each Commissioner with a copy to the County Manager and County Attorney.

Any member of the public who wishes to address the Board regarding an agenda item shall complete a sign-up card on the table outside the entrance door to the Commissioners' Chambers clearly indicating the item number(s) to which they intend to speak. Sign-up cards will be available beginning 30 minutes before the start of the meeting. No one will be allowed to have his/her name placed on the list by telephone request to County Staff. A time limit is established of three minutes to speak on regular agenda items and two minutes to speak on consent agenda items for each individual (other than staff and those presenting the request to the Board) in an effort to ensure adequate discussion of that item and all the other items on the agenda. The Chairman may shorten this time limit, or otherwise limit the number of speakers, based on the number of individuals who sign up to speak on an item.

Each individual signed up to speak shall only be entitled to the time allotted to each speaker. *Individuals signed up to speak shall not be allowed to yield their allotted time to another speaker. (Revised 01/23/2017).* Information sheets outlining the process for the public's participation in Board meetings will also be available in the rear of the room.

VI. ORDER OF BUSINESS

- 1) Adjustment of Agenda
- 2) Approval of Minutes
- 3) Ceremonial Items (Proclamations/Recognitions/Resolutions)**
- 4) Approval of Consent Items
- 5) Public Hearings
- 6) Other Business
- 6 Items removed from Consent Agenda
- 7) Closed Session*
- 8) Adjournment

*May be at the beginning of the meeting.

**The goal for expediting the length of meeting times is to only have 4-5 ceremonial items per meeting. *(Revised 08/11/2014)*

VII. POWERS OF THE CHAIR

The Chair shall preside at meetings of the Board. In the Chair's absence, the Vice-Chair shall preside and shall have all the powers specified herein. If the Chair and Vice-Chair are both absent from the meeting, the Clerk to the Board shall convene the meeting and the remaining members shall elect a member to preside for that meeting or until either the Chair or Vice-Chair appears. A member must be recognized by the Chair in order to address the Board. The Chair shall have the following powers:

1. To rule motions in or out of order, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
2. To establish time restraints for discussion, except for matters requiring a quasi-judicial public hearing;
3. To determine whether a speaker has gone beyond reasonable standards of courtesy in his/her remarks and to entertain and rule on objections from other members on this ground;
4. To entertain or refer to the County Attorney questions of parliamentary law or procedure;

5. To call a brief recess when needed;
6. To adjourn in an emergency;
7. To conduct public hearings as otherwise provided for herein; and
8. At the beginning of the commissioner's term the Board Chair shall appoint members to serve on numerous county, state, and regional created boards, which require a county commissioner to serve *ex-officio*. Prior to doing so, each Board member shall identify the boards upon which he/she would like to serve and the Board shall vote on the Chair's appointments at the next regular meeting or take other appropriate action. (*Revised 08/11/2014*). (*Revised 1/23/2017*)

The Chair and Vice Chair of the Board shall serve on the Audit Oversight Committee; and the Chair shall serve on the Board of the Chamber of Commerce. (*Added 08/11/2014*).

9. To direct any person to leave the meeting when the person willfully interrupts, disturbs, or disrupts the meeting. Any person who fails to leave the meeting after being directed to do so by the Chairman shall be removed by the Sheriff and charged with a misdemeanor pursuant to G.S. § 143- 318.17.

VIII. ACTION BY THE BOARD

The Board shall proceed to discuss an item, including receipt of comment from the staff or the public, when the item is announced by the Chair. Upon completion of discussion, the Board shall, unless some other action is deemed appropriate, proceed by motion on the item. Any member, including the Chair, may make a motion or second a motion.

Second Required

Any motion to be considered for a vote shall require a second. If the motion does not receive a second, it "dies" for lack of a second. If the motion is seconded, and stated by the Chair, it then goes before the Board for discussion and debate.

Substantive Motions

Only one substantive motion may be considered on the floor. A new substantive proposal may not be put forth until action on the preceding one has been concluded.

A subsidiary motion can be made only while a substantive motion is pending. Examples of subsidiary motions are: a motion to table a motion, to move the previous question, to go into closed session, to amend a main motion, to make a substitute motion with only two substitute motions being allowed to the main motion.

Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum being present unless otherwise required by these rules, an ordinance, or state statute.

Debate

The Chair shall state the motion and then open the floor to debate. The Chair~~man~~ shall preside over the debate according to these general principles:

- (a) The introducer (the person who makes the motion) is entitled to speak first;
- (b) A member who has not spoken on the issue shall be recognized before a member who has previously spoken;
- (c) To the extent possible, the debate should alternate between opponents and proponents of the measure.

Procedural Motions

The following procedural motions and no others shall be in order.

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.
2. To Take a Recess. The motion is in order at any time a member feels a recess is needed. The Chair~~man~~ also has the power to call a brief recess.
3. To Defer Consideration. A substantive motion whose consideration has been deferred expires one hundred (100) days thereafter, unless a motion to revive consideration is adopted.
4. To Revive Consideration. This motion is in order at any time following the expiration of 100 days after a vote to defer consideration of an item.
5. To Reconsider. The motion must be made by a member who voted with the prevailing side in the prior action.

A motion to reconsider an item on which action has been taken following a public hearing required by statute may be considered only after a public hearing on the reconsideration request.

A motion to reconsider an item on which action has been taken following a discretionary public hearing may be considered without further public hearing in the discretion of the Board determined by majority vote.

6. To Ratify. To provide clarity the Board may later ratify any action which it has or could have authorized.
7. To Prevent Reconsideration for Six (6) Months. The motion shall be in order immediately following the defeat of a substantive motion and will not be allowed at any other time. The action of the Board, if the motion is adopted, is valid for six (6) months or until the next regular election of county commission board members, whichever occurs first.
8. To Amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the amended motion has the same effect as rejection of the original motion. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last offered amendment is disposed of by vote. Any amendment to a proposed ordinance shall be reduced to writing before the vote on the amendment.
9. Renewal of Motion. A motion that is defeated may be renewed at any subsequent meeting unless a motion to prevent reconsideration has been adopted.
10. Withdrawal of a Motion. A motion may be withdrawn by the introducer at any time before a vote.
11. Suspension of the Rules. These rules may be suspended by a majority vote of the Board, but such motion may not be made if a substantive motion is already before the Board.

Duty to Vote

All Board of Commissioner members have a statutory duty to vote. Any non-vote will be counted in the affirmative and will be assessed in favor of the pending motion.

G.S. 153A-44 provides that members may be excused from voting on matters in which they have a direct financial interest, or on questions involving the Board member's official conduct. The County Attorney may be asked by the individual Commissioner, the Board, or any other interested party to render an opinion on questions of conflicts of interest arising from financial interest, official conduct, or any other circumstance presenting the appearance of conflict of interest of any member. Any member who has a conflict of interest and wishes to be excused from voting shall so inform the Chair. If the Board votes to excuse the member; the remaining members shall take a vote on the item. *(Revised 01/23/2017).*

Introduction of Ordinances

A proposed ordinance shall be deemed to be introduced at the first meeting in which it is

placed on the agenda, regardless of whether it is actually considered by the Board.

Adoption of Ordinances

To be adopted at the meeting at which it is first introduced, an ordinance must receive the approval of all members of the Board. If the proposed ordinance is approved by a majority of those voting but not by all the members of the Board, or if the ordinance is not voted on at that first meeting of the Board, it shall be considered at the next regular meeting. If it then or at any time thereafter within 100 days of its introduction receives another majority vote, the ordinance is adopted.

Adoption of the Budget Ordinance

1. Any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the board by a simple majority vote.
2. No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the Board.
3. The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any local act concerning and calling of an initiative or referendum.

During the period beginning with the submission of the budget to the Board and ending with the adoption of the budget ordinance, the Board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Any provisions of law concerning the call of special meetings do not apply during that period so long as (i) each member of the Board has actual notice of each special meeting called for the purpose of considering the budget, and (ii) no business other than consideration of the budget is taken up.

Closed Session

The Board may hold closed sessions as provided by law. It shall commence a closed session by a majority vote on a motion to do so which specifically refers to the provision(s) of law providing the authority for the closed session as required by the amended Open Meetings Law. All minutes of Closed Sessions shall be sealed unless otherwise noted during the meeting.

The Manager, Clerk, and Attorney shall attend all Closed Session meetings of the Board unless instructed otherwise by consensus of the Board. Other staff may be invited to attend as the Board deems appropriate. *(Added 08/11/2014)*

Quorum

A majority of the membership of the Board shall constitute a quorum. The members required for a quorum shall not be affected by vacancies. A vacancy occurs when a seat on the Board is unoccupied due to the permanent departure of a commissioner. (*Added 01/23/2017*). If a member (*Revised 01/23/2017*) has withdrawn from a meeting without being excused by a majority vote of the remaining members, he/she shall be counted as present for the purposes of determining whether a quorum is present.

Public Hearings

Public hearings required by law or deemed advisable by the Board shall be organized and adopted by a majority vote, setting forth the subject, date, place, and time of the hearing.

The Board may adopt a standing rule that the staff may schedule and give notice of public hearings on requests for zone changes and special use permits pursuant to the Planning and Zoning Ordinance.

At the appointed time, and after the staff or other appropriate persons have presented the item, the Chair shall open the public hearing, and when the allotted time expires or no one who has not yet spoken wishes to do so, the Chairman shall declare the hearing ended. To the extent required by state law, the Chair shall have the authority to administer oaths or authorize the Clerk to do so to witnesses presenting evidence in public hearings. Except for matters requiring a quasi-judicial public hearing, the party presenting the request shall have *ten* minutes to present its request. Any other persons either speaking in favor of or opposed to the request shall have three minutes each for their remarks. Additional time shall be allowed for all speakers to answer questions from the Board of Commissioners. Each individual signed up to speak shall only be entitled to the time allotted. *Individuals signed up to speak shall not be allowed to yield their allotted time to another speaker.* Rebuttals will only be permitted if deemed necessary by the Chair, with time limits therefore being set in the discretion of the Chair. (*Revised November 22, 2010*).

Minutes

Minutes shall be kept of all meetings of the board, including closed sessions as provided by law.

Closed Session Minutes (*Approved 08/11/2014*)

Closed Session minutes are to be completed by the Clerk, and in the absence of the Clerk, the minutes shall be completed by the Deputy Clerk. The minutes shall be a general account of the Closed Session so that a person not in attendance would have a reasonable understanding of what transpired. Minutes should include the following: Purpose of the Closed Session; County Attorney discussion about legal issues; real estate items – record price, value and location. The minutes do not include names of Commissioners or their comments. Directives to staff are included in the minutes.

Minutes of the Closed Session may be withheld from public inspection so long as public

inspection would frustrate the purpose of a Closed Session. Personnel items are never opened to the public. The Board shall seal Closed Session minutes as it deems appropriate.

The Clerk and Attorney shall review Closed Session minutes quarterly to determine if the minutes can be opened.

Minutes that can be opened shall be placed on the consent agenda quarterly for approval-

Minutes that cannot be opened shall be approved by the Board in Closed Session on a quarterly basis.

Minutes regarding issues that remain permanently sealed (personnel) may be approved in Closed Session per: "The Board is requested to adjourn to closed session 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 G.S. 143-318.11(a)(1)."

Attendance at Board Meetings

The Board shall request an excused absence from regular meetings prior to any planned absences. Commissioners are encouraged to make every effort to attend all county, state, and regional created board meetings in which they serve as liaisons or representatives. (Revised January 23, 2017)

The Rules of Procedure for Durham County Commissioners were adopted by the Board on March 13, 1989 and became effective March 13, 1989. There have been periodic amendments which are reflected in this revision adopted January 27, 1997, February 10, 2003, January 10, 2005, November 22, 2010, June 9, 2014, August 11, 2014, and January 23, 2017.

Remote Participation Policy for Meetings of Durham Board of County Commissioners

Members of the Durham Board of County Commissioners (Board) may remotely participate in briefings and official meetings of the Board, subject to the following rules and procedures:

1. Remote participation may only be used in limited circumstances. A commissioner desiring to participate in a meeting remotely should give as much advance notice as possible. If advance notice is impractical, the commissioner must notify the Clerk at least 24 hours in advance of the meeting, and attest one or more of the following reasons for being physically unable to attend the meeting:
 - a. Personal illness or disability;
 - b. Employment purposes; or
 - c. Family event or other emergency.

2. Remote participation may only be allowed during open sessions when a quorum of the Board is physically present at the meeting and the commissioner participating remotely is not necessary to establish a quorum.
3. Remote participation shall not be allowed during the following situations:
 - a. Quasi-judicial hearings;
 - b. Closed sessions;
 - c. Any other official meetings in which the subject matter to be discussed is subject to privilege or is considered confidential, such as attorney/client communications or personnel matters.
4. At the start of the meeting and prior to participating in deliberations, the Chair of the Board shall announce that a commissioner is participating remotely. Such commissioner shall identify him/herself and state the location from which he/she is participating remotely.
5. In the event, the Chair is participating remotely, the Vice Chair shall preside over the meeting.
6. The commissioner participating remotely shall not be allowed to make motions. The commissioner may vote; however, the remote participant may not cast the deciding vote on any matter.
7. The commissioner participating remotely shall have been provided with all documents to be considered during the official meeting.
8. The commissioner participating remotely must ensure that he/she can be fully heard by the other members of the Board and any other individual(s) in attendance at the official meeting. Use of telephone, internet, or satellite-enabled audio or video conferencing, or any other technology that enables the remote participation and all persons present at the meeting location to be clearly audible to one another is appropriate. If clear audio is not available, the Chair may elect to disallow the participation.
9. No written ballots may be taken at the official meeting if one or more commissioners are participating remotely. (*Approved May 8, 2017*)

RULES OF PROCEDURE FOR DURHAM COUNTY COMMISSIONERS TO GOVERN WORKSESSIONS

INTRODUCTION

The following rules of procedure were developed for use by the Durham County Board of Commissioners in conducting Worksessions. Since Worksessions have been initiated for the purpose of discussion only with the intent of reducing the amount of time for consideration of items at regularly scheduled meetings, it is intended that no action will be taken on any item during the Worksession, other than that of giving directions to the administration and staff as to preparation and presentation of the item at a scheduled regular meeting.

However, since notices of the sessions are given as required by the Open Meetings Law, they constitute an Official Meeting of the Board, and action can be taken. It is recommended however, that actions not be taken unless necessary to address an issue which is time-sensitive and which cannot wait until a regularly scheduled meeting of the Board. In the event action is required to be taken on a time-sensitive issue, those Rules of Procedure adopted by this Board on March 13, 1989 and as amended relate to motions and votes shall be followed.

To the extent the Rules of Procedure adopted by this Board on March 13, 1989 as amended govern discussions of items and materials, they shall apply to discussions at the Worksession.

I. MEETING TIME

The Worksessions will be held on the first Monday of each month unless the meeting time is changed to avoid conflicts with regularly scheduled holidays, or unless changed or canceled by majority vote of the Board. The meetings will be held in the County Commissioners' Chambers beginning at 9:00 a.m.

II. AGENDA

The Chair, Vice Chair, County Manager, County Attorney, County Clerk, Budget Director, General Managers, and Chief of Staff (*Revised January 23, 2017*) shall meet in advance the week the agenda is due to approve all agenda items for the upcoming meeting. (*Revised 08/11/2014*) Any board member may, by a timely request, have an item placed on the agenda.

The Clerk to the Board shall prepare the agenda for the meeting. Agenda packages will be distributed by the end of the Wednesday preceding the meeting date. All agenda materials must be submitted to the Clerk to the Board on Friday, two weeks preceding the meeting date. Any board member, by a timely request, may have an item placed on the agenda for

inclusion in the agenda package.

A complete copy of the agenda with attached material shall be available for public inspection as soon as distribution to Commissioners has been completed.

At least one copy of the complete agenda package shall be available for public inspection and reference in the foyer area of the Chambers during the meeting, and shall be shown on the screen outside of the Chambers. The agenda shall also be available on the County's website by Friday preceding the meeting. (*Revised 08/11/2014*).

The Board may, by majority vote, add an item that is not on the agenda.

III. CITIZEN COMMENT

The Board of Commissioners will provide a 30-minute comment period at the beginning of its Worksession meeting on the first Monday of each month. Any citizen of Durham County wishing to speak shall have an opportunity to do so. Speakers must sign in prior to the start of the meeting providing a mailing/email address and telephone number so that staff may reply to comments and/or questions. The Board may or may not comment on issues presented, but may address its concerns through staff, if a response is warranted. However, citizens who require an immediate response from the Board are encouraged to submit a brief description of the issue to the Clerk to the Board two weeks prior to the Worksession to allow an opportunity for research prior to the meeting. All speakers shall have three minutes to speak and are requested to refrain from addressing issues related to personnel matters. (*Revised November 22, 2010*).

IV. POWERS OF THE CHAIR

The Chair shall preside at the Worksessions. In the Chair's absence, the Vice-Chair shall preside and shall have all the powers specified herein. A member must be recognized by the Chair in order to address the Board. The Chair shall have those powers specified in the Board's Rules of Procedure related to discussion of items and materials on the agenda for the Worksession, and specifically

1. To establish time restraints for discussion;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his/her remarks and to entertain and rule on objections from other members on this ground;
3. To entertain or refer to the County Attorney questions of parliamentary law or procedure;

4. To call a brief recess when needed; and
5. To adjourn in an emergency.

V. DISCUSSION BY THE BOARD

The Board shall proceed to discuss an item, including receipt of comment from the staff, when the item is announced by the Chair. Upon completion of discussion, the Board shall give the staff and administration direction as to preparation for and presentation of the item at a regularly scheduled meeting. This may take the form of expressed consensus among the members, but if necessary to establish the Board's intent, may be expressed in the form of a motion and voted upon. These rules may be suspended by a majority vote of the Board.

Quorum

A majority of the membership of the Board shall constitute a quorum. In the event it is necessary to vote on any item which is time-sensitive, a quorum must be present for the motion and vote. For purposes of such votes in the Worksessions, if a member is absent or has withdrawn from a meeting without being excused by a majority vote of the remaining members, he/she shall be counted as present for the purposes of determining whether a quorum is present.

VI. MINUTES

Minutes of the Worksessions shall be prepared by the Clerk to the Board to the same extent as a regular meeting and as required by law.

VII. COMMISSIONER COMMENTS

Each commissioner shall have three minutes at the end of the Worksession to report on conferences or workshops, or to bring issues to the attention of the Board that may be of interest to the Board. *(Added January 23, 2017)*

These Rules of Procedure to Govern Conduct of Worksessions were adopted by the Durham County Board of Commissioners on January 14, 1991, and became effective on that date. They have amended from time to time, and said amendments are reflected in this revision adopted January 27, 1997, February 10, 2003, January 10, 2005, May 11, 2009, November 22, 2010, August 11, 2014, and January 23, 2017.