

**RULES OF PROCEDURE  
FOR  
RUTHERFORD COUNTY  
BOARD OF COMMISSIONERS**

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# RULES OF PROCEDURE

## FOR

### RUTHERFORD COUNTY BOARD OF COMMISSIONERS

#### I. Applicability

**Rule 1. Applicability of Rules.** These rules apply to all meetings of the Board of Commissioners of Rutherford 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 to exercise any of its executive and legislative powers conferred by law. 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 regular informal work sessions or committee meetings where public business is discussed but no official action taken.

#### II. Open Meetings

(Superseded by North Carolina Public Meetings' Law)

#### Rule 2. Meetings to Be Open.

(a) The public policy of North Carolina and of Rutherford County is 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 Rutherford County Board of Commissioners shall be open to the public, and any person is entitled to attend such a meeting.

**Comment:** See GS. 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. However, a social meeting or other informal gathering of the Board members 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) The Board 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 Board in order to preserve the attorney-client privilege between the attorney and the Board, 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 Board to close a meeting that otherwise would be open merely because an attorney employed or retained by the Board is a participant. The Board 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 Board 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 Board 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 Board, including agreement on a tentative list of economic development incentives that may be offered by the Board in negotiations. The 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 Board's staff or negotiating agents concerning the position to be taken by or on behalf of the Board in negotiating (i) the price and other material terms of a contract or proposed 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 Board may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the Board 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 Board having final authority for the appointment or discharge or removal shall be taken in an 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.

(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 Board 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 section (a) of this rule. A motion based on subdivision (a)(1) of this rule shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this rule shall identify the parties in each existing lawsuit concerning which the Board 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 shall attend the closed session. No other person shall 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 every meeting. All other persons should be excluded unless their presence is reasonably necessary to facilitate the Board's deliberations.

### III. ORGANIZATION OF THE BOARD

#### Rule 4. Organizational Meeting

**(a) Even-numbered Years.** The Board shall hold an organizational special meeting at its regular meeting place at 10:00 A.M. on the first Monday in December of each even-numbered year. The Board may change the time of the organizational special meeting to such other time as it chooses on the same day, but any change must be made in accordance with the notice provisions of Rule 6(b). The agenda for this organizational meeting shall be limited to 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 organizational meeting shall be convened and concluded before the regular December meeting is convened. The Clerk to the Board of Commissioners 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. As the third order, the Board shall approve the bonds of the sheriff and the register of deeds and induct them and any other newly elected county officials into office.

**(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.

**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. 161-4 (for the register of deeds) and G.S. 162-9 (for the sheriff) require the Board to approve the bonds of these officials.

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. The statute also provides that a new member who cannot be present at the organizational meeting may take and subscribe the oath later.

**Rule 5. Election of the Chair.** The chair and vice chair of the Board shall be elected annually for a term of one year and shall not be removed from the office of chair and vice chair unless he or she becomes disqualified to serve as a Board member.

**Comment:** G.S. 153A-39 provides for the election of a chair and states that he or she is chosen “for the ensuing year.”

#### **IV. Regular and Special Meetings**

**Rule 6. Regular and Special Meeting.**

(a) **Regular Meetings.** The Board shall hold a regular meeting on the first 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 a motion approved by the Board. Regular meetings shall be held at the Rutherford County Office Building and shall begin at 6:00 P.M. The Board may change the place or time of a particular regular meeting within a specified period by resolution adopted, posted, and noticed at least 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 GS. 143-318.12(b)(1) and G.S. 153A-40(a) and GS. 153A-40(b).

(b) **Special Meetings.** The chair or a majority of Board members may at any time call a special meeting of the Board by signing a written notice stating the time and place of the meeting and the subjects to be considered. Such notice shall be delivered to the Clerk to the Board who shall cause the notice to be posted on the courthouse bulletin Board and the door of the Rutherford County Office Building and sent via electronic or other means to the chair and all other Board members or left at the usual dwelling place of each member at least forty-eight hours before the meeting. In addition, the notice shall be mailed or sent via electronic or other means to individual persons and news organizations having requested such notice as provided in section (e), below. Only items of business specified in the notice may be transacted at a special meeting, unless all members are present or those not present have signed waivers.

**Comments:** See GS. 153A40(a) and 143-318.12(b)(2).

(c) **Emergency Meetings.** If a special meeting is called to deal with an unexpected circumstance requiring immediate consideration, the notice requirements of this rule do not apply. However, the person or persons calling an emergency meeting shall take reasonable action to inform the other members and the public of the meeting. Local news organizations having requested notice of special meetings as provided in section (e), 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-401(b) and 143-318.12(b)(3).

(d) **Notice.** For any meeting, except an emergency meeting, the Board shall cause written notice of the meeting stating its purpose (i) to be posted on the courthouse bulletin board and the door of the Rutherford County Office Building and (ii) to be mailed, e-mailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice with the Clerk to the Board or with some other person designated by the Board. The Board shall also cause notice to be mailed, e-mailed, or delivered to any person, in addition to the representatives of the media listed above, who has filed a written request with the clerk, secretary, or other person designated by the Board. This notice shall be posted and mailed, e-mailed, or delivered at least 48 hours before the time of the meeting. The notice required to be posted on the courthouse bulletin board and the door of the Rutherford County Office Building. The Board requires each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the request annually. The Board shall charge a fee to persons other than the media, who request notice, of ten dollars (\$10.00) per calendar year. No fee shall be charged for notices sent by e-mail.

(e) **Sunshine List.** Any individual and any newspaper, wire service, radio station, and television station may file a written request with the Clerk to the Board of Commissioners for electronic notice of all special meetings of the Board. Requests must be renewed annually on June 30. Requests shall be governed as set forth in (d) above.

**Comment:** See G.S. 143-318.12 (b) (2). The clauses within braces are optional.

(f) In case of inclement weather, the Chairman may change the time, date, or location or delay a meeting of the Board of Commissioners.

## **Rule 7. Broadcasting and Recording of Meetings.**

(a) Except as herein below provided, any radio or television station is entitled to broadcast all or any part of a meeting required to be open. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) A Board may regulate the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a meeting, so as to prevent undue interference with the meeting. However, the Board must allow such equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of such equipment shall not be declared to constitute undue interference; provided,

however, that if the Board, in good faith, should determine that the size of the meeting room is such that all the members of the Board, members of the public present, and the equipment and personnel necessary for broadcasting, photographing, filming, and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the Board, acting in good faith and consistent with the purposes of this Article, may require the pooling of such equipment and the personnel operating it; and provided further, if the news media, in order to facilitate news coverage, request an alternate site for the meeting, and the Board grants the request, then the news media making such request shall pay any costs incurred by the Board in securing an alternate meeting site.

**Rule 8. Electronic Meetings; Written Ballots; Acting by Reference**

**(a) Electronic Meetings.** If a Board holds an official meeting by use of conference telephone or other electronic means, it shall provide a location and means whereby members of the public may listen to the meeting and the notice of the meeting required by this Article shall specify that location.

**(b) Written Ballots.** Except as provided herein, a Board may not vote by secret or written ballot. If a Board decides to vote by written ballot, each member of the body so voting shall sign his or her ballot; and the minutes of the Board shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the Clerk to the Board immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots shall be destroyed.

**(c) Acting by Reference.** The members of the Board shall not deliberate, vote, or otherwise take action upon any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the Board to understand what is being deliberated, voted, or acted upon. However, this rule does not prohibit a Board from deliberating, voting, or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted, or acted upon, are available for public inspection at the meeting.

**V. Agenda**

**Rule 9. Agenda.**

**(a)** The clerk to the Board shall prepare the agenda for each regular, special, and emergency meeting. Requests from any Board member, the County Manager, or the Clerk to the Board to have an item of business placed on the agenda for a regular meeting must be received by the Clerk no later than 5:00 P.M. on the Monday that falls at least one week prior to the regular meeting.

**(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. Each item placed on the agenda must include the contact information of the person providing the item along with the date of the agenda. Any additional information provided for the item must also include the contact information and date of the agenda.

A copy of the agenda packet shall be e-mailed or placed in individual Commissioners' mail boxes at the Rutherford County Office Building on the Wednesday prior to the regular meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been received by each Board member.

(c) The Board may, by majority vote, add an item not on the agenda.

**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 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, and this rule takes that approach. Other Boards use their agenda to control the length of meetings, and will often hold a work session before the regular meeting to ask questions and thoroughly explore the proposals to be voted on at the meeting. Generally these Boards **do** not allow late additions to the agenda unless an emergency exists. The manager may for convenience maintain a mailing list of interested parties wishing to receive a copy of the agenda regularly.

## VI. Conduct of Debate

**Rule 10. Powers of the Chair.** The chair shall preside at all Board meetings. To address the Board, a member must be recognized by the chair. 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 offered for patently 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* and increases the chair's authority; his or her decisions regarding decorum in debate and rules of parliamentary procedure are final and cannot be appealed to the membership, and he or she has concurrent authority to declare a recess when necessary to "clear the air" and thus hold friction among the members to a minimum (in *RRO*, a recess can be taken only on a motion and vote by the members).

**Rule 11. Action by the Board.** The Board shall proceed by motion. Any member, including the chair, may make a motion.

**Rule 12. Second Required.** A motion shall require a second.

**Comment:** The philosophy underlying the requirement of a second - that if a proposal is not supported by at least two members, it is not worth time to consider - does not apply 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 having the support of such a large proportion of members

**Rule 13. One Motion at a Time.** A member may make only one motion at a time.

**Rule 14. 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 to consider and deal with distinct issues one at a time. 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." "Substantive motion" is used here to underscore the distinction between it and the various procedural motions listed in Rule 17. Basically, a substantive motion is any motion other than the procedural motions listed in Rule 17. The possible subject of a substantive motion coextends with the Board's legal powers, duties, and responsibilities. Indeed, since Rule 14 provides that the Board proceed by motion the substantive motion is the Board's exclusive mode of action. The procedural motions detailed in Rule 17 set forth Board's various options in disposing of substantive motions.

**Rule 15. Adoption by Majority Vote.** A motion shall be adopted if approved by a majority of the votes cast, unless otherwise required by these rules or North Carolina laws.

**Rule 16. Debate.** The chair shall state the motion and then open the floor to debate, presiding according to these general principles in descending order:

- (1) The member making the motion or introducing the ordinance, resolution, or order may speak first.
- (2) A member who has not spoken on the issue shall be recognized before someone who has already spoken.
- (3) If possible, the debate shall alternate between opponents and proponents of the measure.

**Rule 17. Procedural Motions.** (a) In addition to substantive proposals, the procedural motions listed in section (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*. The following enumerations of procedural motions are exhaustive; if a procedural option is not listed, 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. Priority establishes which procedural motion yields to which - that is, what procedural motion may be made and considered while another is pending.

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, thus 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 this motion 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 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 deviating 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 vote equal to a quorum.

**Comment:** This motion is like the one in *RRO* except 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 at a particular meeting, all three must vote for the motion in order to adopt it. It 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 manipulating the rule to prevent one member from participating in deliberations is possible. Frequent use of the motion to prevent one member from presenting proposals or from speaking on an issue 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 like 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 deferred motion dies if not taken up by the Board (via a motion to revive consideration) within one hundred days of the vote deferring 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 time for deferring consideration because it is also the time within which a proposed ordinance must be enacted (see Rule 21).

7. *To Call the Previous Question.* The motion is not in order until there has been at least twenty minutes of debate and every member has had one opportunity to speak.

**Comment:** This motion differs from the one 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 compel an immediate vote on a proposal without any debate on the issue. Such a device may be necessary to preserve efficiency in a large assembly, but with a small Board, a minimum period of debate on every proposal strikes a better balance between efficiency and effective representation by all members. Since every member will have an opportunity to speak, the debate may be ended by a majority vote.

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 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 like the motion in *RRO* except that the introducer's right to compel consideration by the full Board after a specified time prevents using the motion to defeat a proposal by referring it to a committee intending not to act. 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 like the motion in *RRO* except for the additional 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. 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 to avoid confusion. It 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, 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 where the original vote was taken, and by a member who voted with the prevailing side. It cannot interrupt deliberation on a pending matter but is in order 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 here does not allow reconsideration of a vote once the meeting adjourns. A member wishing to reserve an action of a previous meeting may take a motion or introduce a new ordinance having the opposite effect.

13. *To Prevent Reconsideration for Six Months.* The motion shall be in order only immediately following the defeat of a substantive motion. It 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 this as it sees fit. The motion is not effective beyond the next regular election, in order to give the new Board a clean slate.

**Rule 18. 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 - a procedure unnecessary for a small Board.

**Rule 19. 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 wishing 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. 153A44 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 or 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 20. Introduction of Ordinances, Resolutions, and Orders.** A proposed ordinance shall be deemed introduced at the first meeting where 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:** GS 153A-45 provides that an ordinance may not be finally adopted at the meeting where 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. This 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 21. Adoption, Amendment, or Repeal of Ordinances.** To be adopted at the meeting where it is first introduced, an ordinance or an 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 but not all the members of the Board, or if the measure is not voted on at that meeting, it shall be considered at the next regular meeting of the Board. If it then or any time thereafter within one hundred days of its introduction receives a majority of the votes cast, the measure is adopted.

**Comment:** See GS. 153A 15. See also GS. 153A46, which requires franchise ordinances to be adopted at two regular meetings.

**Rule 22. 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, he or 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 GS. 153A43. Compelling the attendance of a member by ordering the sheriff to take him or her into custody is an extraordinary remedy to be used 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 wisely give absent members notice that their attendance is required by the majority and may be compelled in this manner.

**Rule 23. Public Hearings.** Public hearings required by law or deemed advisable by the Board shall be scheduled and advertised as required setting forth the subject, date, place, and time of the hearing. The Board may adopt any rules regarding the length of time allotted to each speaker and designating representatives to speak for large groups. At the appointed time on the agenda, the chair shall call the hearing to order and preside over it. If an allotted time is established and expires, the chair shall declare the hearing ended and the Board shall resume the regular order of business.

**Comment:** GS. I 53A-52 provides that public hearings may be held anywhere within the county and gives the Board authority to adopt rules governing the hearings.

**Rule 24. Quorum at Public Hearings.** A quorum of the Board must be present at all public hearings required by law.

**Comment:** GS. I 53A-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 25. 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 *RRO* to resolve procedural questions.