

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 6 January 2014

SUBJECT: Rules of Procedure

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Draft rules

SUMMARY OF REQUEST:

At your last meeting, the Board directed the County Attorney to draft rules regarding agenda and other meetings. After that meeting, many of your members expressed concerns with the County Manager and the County Attorney regarding the number and purposes and procedures for meetings to set the agenda for other meetings of this Board. After discussion with various members of the Board, the proposed replacement Rules of Procedure for the Board is proposed.

The proposed Rules are similar to your existing rules. Some items you should note:

- **Rule 4**, regarding Organizational Meetings, conforms with Board practice in recent times.
- **Rule 6**
 - Subsection (a): changes in the date, time or place of a regular meeting have to be made and given notice of at least seven days in advance.
 - Subsection (b): notice of a special meeting has to be given 48 hours in advance. There is a limitation (to the subject(s) listed in the notice) of Board discussion and action at special meetings.
- **Rule 9** deals with agendas (with these procedures in lieu of “agenda meetings”):
 - Published agendas (with supporting documentation) must be provided by staff to Board members at least three (3) days prior to the meeting.
 - Any member may add a matter to the agenda, but must notify staff (so as to enable staff to include that matter in the published agenda to the entire Board) at least two (2) days prior to the due date for published agendas.
 - Staff additions to the published agenda can only occur in cases of (1) emergency, or (2) time-sensitive closed sessions.
 - A majority of the Board can add a matter beyond those listed on the published agenda, but only at regular (not special or emergency) meetings.
 - Rule 9(d) sets out a procedure for dealing with “consent list” items.

These proposed Rules are very much in accord with the counsel provided by the North Carolina School of Government, with specific changes to meet the needs of this Board.

County staff will present further information on this matter.

BOARD ACTION REQUESTED:

Approval of the Rules.

If the Board is so inclined, the following motion is suggested:

I move that the Board adopt the proposed Rules of Procedure as the Board's Rules, to remain in effect until modified by this Board.

**HENDERSON COUNTY
BOARD OF COMMISSIONERS
RULES OF PROCEDURE**

Adopted _____

Rule 1. Applicability of Rules

These rules apply to all meetings of the Board of Commissioners of Henderson County and the Board of (collectively, “the Board”) at which the Board is empowered to exercise any of the executive, quasi-judicial, administrative or legislative powers conferred on it by law.

Rule 2. Meetings to be Open

(a) Nothing here shall be construed to violate the Open Meetings Law as codified in N.C. Gen. Stat. §143-318.9 *et seq.*

(b) No person shall be entitled to willfully interrupt, disturb, or disrupt an official meeting. In such case, the person may be directed to leave the place of such official meeting by the chair, upon pain of violation of N.C. Gen. Stat. §143-318.17.

Rule 3. Closed Sessions

(a) The Board may hold closed sessions and exclude the public as is provided under North Carolina law.

(b) No final actions on appointments or discharges of employees may be taken in closed session.

(c) To go into closed session, the Board must be in an official and open meeting, and:

(1) A motion to go into closed session must be made.

(2) The reason for the closed session, including the provision in North Carolina law allowing a closed session must be cited as a part of the motion, unless the closed session is noted on the Board’s published proposed agenda for the official and open meeting, and unless the proposed agenda is adopted without change to the provisions for the closed session.

(d) Unless the motion to go into closed session provides otherwise, the County Manager, the Clerk to the Board, and the County Attorney may attend the closed session. In situations where one or more of the County Manager, the Clerk to the Board, or the County Attorney is a subject of the closed session, one or more of them may be dismissed from the closed session by the Board.

Rule 4. Organizational Meeting

(a) Even-Numbered Years. The Board shall hold an organizational meeting at its regular meeting place at the designated time on the first Monday in December of each even-numbered year.

(1) The agenda for this organizational meeting shall be limited to induction (and, if necessary, taking of oath(s) of office) of newly elected members of the Board and other elected county officials and organization of the Board for the ensuing year.

(2) The organizational meeting shall be convened and concluded before the first regular December meeting is convened.

(3) The County Attorney shall call the meeting to order and shall preside until a chair is elected.

(4) The agenda for such organizational meeting shall be the following order, conducted in the following order:

(i) (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;

(ii) the Board shall elect a chair and vice-chair from among its members; and,

(iii) the Board shall approve the bonds of the sheriff, and the register of deeds.

(5) The Board shall then convene its first regular meeting in December.

(b) Odd-Numbered Years. The procedure for organizational meetings in odd-numbered years shall be as for even-numbered years, except that such meeting shall occur just before the first regular meeting in December of such year.

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.

Rule 6. Regular and Special Meetings

(a) Regular Meetings. The Board shall hold a regular meeting on the first Monday of each month, commencing at 5:30 p.m., and on the third Wednesday of each month, commencing at 9:00 a.m. 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 Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina. The Board may cancel a particular meeting, 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. In no event shall the Board meet less than one time during a calendar month.

(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 subject(s) to be considered at such meeting. The person or persons who call the meeting shall cause the notice to be posted on the bulletin Board designated as the door of the Henderson County Historic Courthouse, 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.

(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 which 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.

(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. Requests by must be renewed annually on or before 15 December of each year.

(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 generally held on a regular schedule, and if not held during a regular meeting are subject to the same notice requirements as special Board meetings.

Rule 7. All Meetings within the County

All meetings shall be held within the boundaries of Henderson 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 or Congress representing all or any portion of this county to support or oppose any bill pending in the General Assembly or Congress or proposed for introduction therein may be held in any place as may be stated in the call of the meeting.

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 prior to 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, 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.

Rule 9. Agenda

(a) The clerk to the Board, in consultation with the County Manager and the County Attorney, shall prepare the agenda for each regular, special, and emergency meeting.

(1) Regular meetings: The draft agenda, with supporting information, shall be prepared and provided to members of the Board at least three (3) working days prior to the meeting.

(i) Board member requests: Any Member may have an item placed on the agenda by requesting the same of the County Manager or County Attorney at least two (2) working days prior to the date by which the draft agenda and supporting documentation must be made available to the Board.

(ii) Staff requests: Any County staff request for an item to be placed on the agenda must be made in accordance with policies adopted by the County Manager. No County staff requested matters may be requested to be added to an agenda after the draft agenda is provided to the Board, except in cases of emergency, or in cases of requests for time-sensitive closed sessions.

(iii) Requests from the public: Any request received by County staff from the public for a matter to be included on the Board's agenda will be evaluated by staff. If in the judgment of the staff the matter should be included, it will be dealt with as a staff request. In the event the request is denied by staff, a copy of the request shall be supplied to all members of the Board. If any member then requests that the matter be included in the draft agenda, it will be dealt with as a Board member request.

(2) Special meetings: The draft agenda, with supporting information, shall be prepared and provided to members of the Board together with the notice for the meeting. No matters may be added to the draft agenda without the written consent of all members of the Board.

(3) Emergency meetings: The draft agenda, with supporting information, shall be provided to members of the Board at the meeting.

(b) The agenda packet shall include the draft 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 by placing a copy of the same in such member's interoffice mail box, and by emailing each member notice of the availability of the same. Additionally, the draft agenda packet shall be posted online on the County's web site at the designated place.

(c) At regular meetings only, the Board may, by majority vote, add an item for discussion that is not on the draft agenda.

(d) The draft agenda may include a list of items ("consent list") proposed by staff for action without substantial debate and by consent. Such items will be routine matters or matters anticipated to be non-controversial.

(1) Without objection from a Member, the items included in the consent list will be acted on by the Board pursuant to a single collective motion.

(2) Any Member may by objection remove an item from the consent list. Such item will then be added to the list of discussion items for consideration by the Board.

(3) Further, any Member, by reserving the right to object, may direct inquiries regarding any such item to staff prior to determining whether to object to the consideration of the item on the consent list. If the Member reserving their right to object after inquiries withdraws their reservation, the item will be considered with the rest of the consent list. If after inquiries the Member wishes to object, the item will then be added to the list of discussion items for consideration by the Board.

Rule 10. Informal Public Comments

The draft agenda of each regular meeting shall include a period of at least thirty minutes for comments 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. Each speaker shall be allowed three (3) minutes, although such time may be extended by the Board. After the time set aside for informal public comments has expired, the chair will recognize further speakers only upon motion duly made and adopted.

Rule 11. Order of Business

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

1. Scheduled public hearings.
2. Informal public comments.

3. Approval of the agenda.
4. Approval of consent items.
5. Discussion items:
 - A. Unfinished business.
 - B. Introduction of ordinances, resolutions, and orders.
 - C. Other new business.

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

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, subject to being overruled by a majority of the Board:

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.

Rule 13. Action by the Board

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

Rule 14. Second Not Required

A motion shall not require a second.

Rule 15. One Motion at a Time

A member may only make one motion at a time.

Rule 16. Substantive Motion

A substantive motion (also called a “main motion”) is out of order while another substantive motion is pending.

Rule 17. 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 the laws of North Carolina.

Rule 18. 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.

Rule 19. Procedural Motions

(a) In addition to substantive motions, 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.

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

- (1) To Appeal a Ruling of the Chair.
- (2) 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.
- (3) To Take a Recess.
- (4) To Call to Follow the Agenda. This motion must be made at the first reasonable opportunity or it is waived.

- (5) To Suspend the Rules. This motion requires a vote equal to a quorum.
- (6) To go into a closed session.
- (7) To leave closed session.
- (8) To Divide a Complex Motion and Consider It by Paragraph.
- (9) To Defer Consideration. A substantive motion whose consideration has been deferred expires one hundred days thereafter, unless a motion to revive consideration is adopted.
- (10) To Call the Previous Question. The motion is not in order until every member has had one opportunity to speak.
- (11) To Postpone to a Certain Time or Day.
- (12) 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.
- (13) To Revive Consideration. The motion is in order at any time within one hundred days of a successful motion to defer 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.
- (11) To Reconsider. The motion must be made at the same meeting at which the original vote was taken or the regular meeting next following, and by a member who voted with the prevailing side.

Rule 20. Renewal of Motion

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

Rule 21. Withdrawal of Motion

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

Rule 22. 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.

Rule 23. 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.

Rule 24. 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 or documents being referenced are available for public inspection at the meeting and are so worded that a reasonable person attending the meeting can understand what is being discussed or acted on.

Rule 25. 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.

Rule 26. 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, 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.

Rule 27. Quorum

A majority of the Board's membership shall constitute a quorum and shall be required for all meetings and hearings. 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, such withdrawn Member 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 and present such Member before the Board.

Rule 28. Public Hearings and Public Comment Periods

(a) 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.

(b) Public Comment Periods. The Board shall provide at least one period for public comment per month during a regular meeting. Each speaker shall be allowed three (3) minutes, although such time may be extended by the Board. The Board may adopt reasonable regulations governing the conduct of the public comment period, including but not limited to rules providing for (1) the designation of representatives to speak for groups supporting or opposing the same position, (2) the selection of delegates from groups with the same position when the meeting hall's capacity is exceeded, and (3) the maintenance of order and decorum in the conduct of the public comment period. The Board shall not restrict speakers based on subject matter, point of view, or the fact that the Board may find the remarks offensive or insulting, as long as the comments pertain to a subject that is within the Board's real or apparent jurisdiction.

Rule 29. 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.

1. 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.

2. 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.

3. Notwithstanding any contrary provision in any board or committee by-laws or charter, for any board or committee created by the Board for which the Board appoints at least one-half the members, the Board shall select the chair of such board or committee, by the process set out in this Rule.