

Leading Your
County
Governing Board

Legal and Procedural
Responsibilities

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North Carolina Association of County Commissioners
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Congratulations!...Now What??




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Role of the Chair



- Maintain order and decorum
- Direct flow of business on agenda
- Recognize members to speak
- Enforce rules of procedure consistently and fairly
- Rule on questions of procedure


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Legal Authority of Chair

- **G.S. 153A-39, -40**
 - Unless Chair is elected, the Board selects for one-year term
 - Chair is presiding officer; Vice Chair acts when Chair absent
 - Unless excused by rule of the board, the Chair has a duty to vote
 - Chair cannot break a tie vote in which he or she voted
 - Chair may call a special meeting (e.g., in emergency)

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Rules of Procedure... And Why They're Important




N.C. Gen. Stat. § 153A-41. Procedures.

The board of commissioners may adopt its own rules of procedure, in keeping with the size and nature of the board and in the spirit of generally accepted principles of parliamentary procedure.

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Rules of Procedure... And Why They're Important




- Necessary to conduct public business
- Maintain order during meeting
- Facilitate flow of agenda
- Resolve questions of procedure consistently

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Rules of Procedure... And Why They're Important

- Meetings
 - Regular; Special; Emergency
- Agendas
- Powers of the Chair
- Actions; Motions; Debate
- Quorum/Voting
- Closed Sessions
- Public Comment





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Rules of Procedure... And Why They're Important

➤ *Examples:*

- Cumberland County
- Lee County

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Rules of Procedure... And Why They're Important


➤ *Examples: Add item to agenda?*

- Cumberland County
- Lee County

Rule 9. The Board may by unanimous vote of all of the members present add an item to the agenda.

Rule 9. The Board may, by majority vote, add an item not on the agenda. Additional agenda items will be placed in consecutive order under "New Business."

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Rules of Procedure... And Why They're Important


➤ *Examples: Require a Second?*

- Cumberland County
- Lee County

Rule 11. Action by the Board
The Board shall proceed by motion. A second to the motion is required in order for discussion to ensue. A motion shall be ruled dead by the Chairman if a second is not received within a reasonable period of time.

Rule 14. Action by the Board
The Board shall proceed by motion. Any member, including the Chair, may make a motion. A second is not required.

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County Statutes


➤ Several provisions in our General Statutes address County governance

G.S. 153A
G.S. 143,
Art. 33C

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County Statutes




➤ **Organization & Procedures of Board of Commissioners (G.S. §153A-39 to -53)**

- The Board must hold at least one regular meeting a month (G.S. 153A-40)
- The Board must meet in the county unless an exception applies (G.S. 153A-40)
- The Clerk must keep minutes of Board proceedings (G.S. 153A-42)
- A quorum = A majority of the Board (G.S. 153A-43)

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County Statutes



➤ **Organization & Procedures of Board of Commissioners (G.S. 153A-39 to -53)**

- Ordinances (other than budget and any ordinances requiring a public hearing) adopted at first reading must be approved by all members (G.S. 153A-45)
- The Board must provide at least one public comment period per month at a regular meeting. (G.S. 153A-52, -52.7)
- The Board must adopt a Code of Ethics, and all members must complete ethics training within 12 months after election (G.S. 153A-53)

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Ethics

- **G.S. 153A-53**
- **G.S. 160A-86, -87**
 - Board of Commissioners required to adopt Code of Ethics
 - All members must receive ethics education


- Obey all applicable laws regarding official actions taken as a board member.
- Uphold the integrity and independence of the board member's office.
- Avoid impropriety in the exercise of the board member's official duties.
- Faithfully perform the duties of the office.
- Conduct the affairs of the governing board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

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Setting the Agenda

- The board is *ultimately responsible* for its own meeting agendas
- Preparing a preliminary agenda may be *delegated*
- A majority of the board can generally *amend* the agenda
- Is there a *legal restriction* on the subject-matter of the meeting (regular, special, etc.)?




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Determining a Quorum

- **Quorum (G.S. 153A-43)**
- A majority of the membership of the Board constitutes a quorum.
- This number is not affected by vacancies.
- A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for the purposes of determining whether a quorum exists.
- The Board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.




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Voting

- **Members Excused from Voting (G.S. 153A-44)**
- The Board may excuse a member from voting, but only upon questions involving the *member's own financial interest or official conduct* or on matters on which the member is *prohibited from voting under G.S. 14-234, 153A-340(g), or 160A-388(e)(2)*.
- Does not apply to questions of compensation and allowances of Board members.




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Voting


- Usually only a **simple majority** is required (*statutes may impose special requirements*)
- Members should vote unless excused
- Determine when a member may be **excused or is prohibited** from voting – conflicts of interest
- No **secret** ballots
- Does the **Chair** vote?
- **Record** votes in the minutes
- A tie vote means motion **does not** carry



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Public Meeting Statutes



G.S. Chapter 143, Article 33C

Each official meeting of the Board is open to the public*

*Unless an exception applies (e.g., Closed Sessions)

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Public Meeting Statutes



Must provide:

- Public Notice of the Meeting
- Method for public to listen if Board holds meeting by conference call or video
- Access to the media to record meeting (Board may reasonably regulate placement of equipment)

May not:

- Vote by secret ballot

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 **Closed Sessions**

➤ **When should Board meet in Closed Session?**

- To prevent disclosure of *confidential or privileged information*
- To prevent disclosure of information that is *not public* record
- To discuss *economic development* incentive negotiations, or matters related to *military installation closure or realignment*
- Matters concerning *real property or employment contract terms*



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 **Closed Sessions**


➤ **When should Board meet in Closed Session?**

- Certain *personnel* matters
- Investigations of alleged *criminal* conduct
- Certain *school safety* plans
- *Public safety* plans related to terrorist activity

➤ **The Board may only go into Closed Session upon a motion made during an open meeting, and must cite the purpose**




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 **Public Comment Period**


➤ **Public Comment Period During Regular Meetings (G.S. 153A-52.1)**

- The Board must provide at least one period for public comment per month at a regular meeting of the board.
- The Board may adopt reasonable rules to govern (i) setting *maximum time* per speaker; (ii) designating a *group spokesperson*; (iii) selecting *group delegates* and (iv) maintaining *order and decorum*.




➤ The Board is not required to provide a public comment period if no regular meeting is held during the month...[but G.S. 153A-40 requires at least one regular meeting a month]

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Public Comment Period

- Establish rules for speakers to ensure *fairness and maintain order*
- **Announce** rules before comment period/hearing
- Provide rules in *writing*
- Apply rules *consistently* to all speakers
- Determine *subject matter limitations* – if any – in advance (be careful not to trample 1st Amendment)




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Public Comment Period

- Time limit for speakers (*timekeeper?*)
- Representative to speak for large group
- Remove disruptive individuals (*§ 143-318.17. Disruptions of official meetings.*)
- Limit signs and displays
- Sign-up sheet
- No personal attacks, profanity, obscenity, etc.
- Receiving written comments and handouts (or not)




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Public Records

- **G.S. Chapter 132**
 - All documents, records, and materials (regardless of physical form) made or received in connection with the transaction of public business
 - State policy that public can obtain copies of public records for free or at "minimal cost"
 - Records are public unless exception applies

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Remote Attendance at Meetings


- No authorizing legislation
- Recommendation, if done, is under limited circumstances
- Forsyth and Durham examples

WHEREAS, the Forsyth County Board of Commissioners desires to allow remote participation by County Commissioners in briefings and meetings of the Board under limited circumstances, subject to the provisions of the attached Remote Participation Policy For Meetings of the Forsyth County Board of Commissioners.

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Remote Attendance at Meetings




➤ *Examples:*

- Forsyth County
Adopted Sept. 2016
- Durham County
Adopted May 2017



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Remote Attendance at Meetings

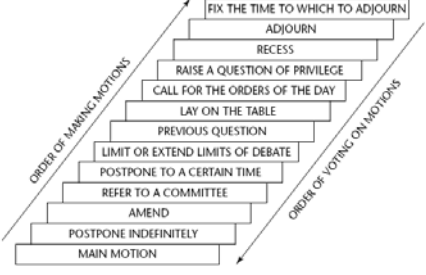
➤ *When does the policy apply?*

- Durham County
 - Personal illness or disability
 - Employment purposes
 - Family event or other emergency
- Forsyth County
 - All of the above, and
 - To participate in other county-related meetings, which make it logistically impossible to attend


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Motions



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How the Chair Works With....

- The Board
- The County Manager
- The County Attorney
- And...

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Thank you!

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