

REQUEST FOR BOARD ACTION / CONTRACT CONTROL FORM

Tracking Number: J.

Date of Request: November 19, 2008

Date Request Received: November 19, 2008

Board Meeting Date Requested: December 1, 2008

Board Meeting Date Assigned: December 1, 2008

Short Title: Nomination And Selection Of Chairman And Vice Chairman

Request Status:

- Request is proceeding to Board of Commissioners
- More information is needed – see attached
- Request on hold – no further information needed
- Other:

Background:

Election of Chairman: Pursuant to North Carolina General Statute (NCGS) 153A-39, the Board of Commissioners, at the first meeting in December, shall choose one of its members as Chairman for the coming year. The Chairman's duties shall be to serve as the presiding officer at meetings of the Board and be the official signatory of documents.

(Administrative Use Only)

Election of Vice Chairman: NCGS 153A-39 also provides that the Board elect a Vice-Chairman from among its members to serve for the next twelve months. The Vice-Chairman's duties will be to act in the absence or disability of the Chairman.

CONTRACT TYPE

- Renewal
- For Service(s)
- Intergovernmental – County as Grantee
 - Federal Grantor
 - State Grantor
 - Grantor
- County as Grantor
 - County Funds
 - Other Funds:
- Revision
- For Equipment

Specific Action Requested: Select the Chairman and Vice Chairman.

Requested by: Board Of Commissioners
Department:
Title:
Contact Phone: 259-1200
Contact Fax:

PURCHASING Budgeted Item: Yes No
Date Rec'd: Reviewed and Approved
 Comments on Reverse

Date Sent: August 20, 2007
Signed:

ATTORNEY Reviewed and Approved
Date Rec'd: Legal Problem(s)
 Comments on Reverse

Date Sent:
Signed:

FINANCE Sufficient Funds Available
Date Rec'd: Not Available
 Budget Amendment Necessary
 Budgeted Amendment is Attached
 Comments on Reverse

Date Sent:
Signed:

CLERK Signature(s) Required:
 Board Chairman/County Manager
 Other:

Date Rec'd Approved by Board: Yes No
At meeting on

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

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

III. Organization of the Board

Rule 4. Organizational Meeting

(a) **Even-numbered Years.** The board shall hold an organizational meeting at its regular meeting place at [10:00 A.M.] on the first Monday in December of each even-numbered year. 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, [the coroner], and the register of deeds and induct them and any other newly elected county officials into office. As the fourth and fifth orders of business, the board may appoint a clerk and an attorney.

Comment: The sentence in brackets should be included if the board normally holds a regular meeting on the first Monday of the month.

(b) **Odd-numbered Years.** At the first regular meeting in December of each odd-numbered year, the first order of business shall be approval of the minutes

of the previous meeting. The second order of business shall be election of the chair and vice-chair for the ensuing year. The third and fourth orders of business may be appointment of the clerk and county attorney.

Comment: This rule incorporates the requirements of G.S. 153A-26 concerning the times for organizational meetings and the qualifications of new members and the requirements of G.S. 153A-39 concerning the election of the chair and the vice-chair. G.S. 161-4 (for the register of deeds), G.S. 162-9 (for the sheriff), and G.S. 152-4 (for the coroner) require the board to approve the bonds of these officials. Counties in which the office of coroner has been abolished should revise this rule accordingly.

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.

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

Rule 5. Election of the Chair

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

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

Part 3. Organization and Procedures of the Board of Commissioners.

§ 153A-39. Selection of chairman and vice-chairman; powers and duties.

On:

- (1) The first Monday in December of each even-numbered year; and
- (2) Its first regular meeting in December of each odd-numbered year,

the board of commissioners shall choose one of its members as chairman for the ensuing year, unless the chairman is elected as such by the people or otherwise designated by law. The board shall also at that time choose a vice-chairman to act in the absence or disability of the chairman. If the chairman and the vice-chairman are both absent from a meeting of the board, the members present may choose a temporary chairman.

The chairman is the presiding officer of the board of commissioners. Unless excused by rule of the board, the presiding officer has the duty to vote on any question before the board, but he has no right to break a tie vote in which he participated. (Code, s. 706; Rev., s. 1317; C.S., s. 1296; 1945, c. 132; 1951, c. 904, s. 1; 1961, c. 154; 1967, c. 617, s. 1; 1969, c. 349, s. 1; c. 1036; 1973, c. 822, s. 1; 1993, c. 95.)

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Please read the caveats on the main NC Statutes page for more information.