REQUEST FOR BOARD ACTION

ITEM NO. 11.

DATE OF MEETING: September 21, 2009

REQUESTED BY: Commissioner F.D. Rivenbark

SHORT TITLE: Discussion and Possible Adoption of Board of Commissioners Rules of Procedure

BACKGROUND: Commissioner Rivenbark has requested discussion and possible adoption of Board of Commissioners rules of procedure. GS 153A-41 allows Boards of Commissioners to adopt rules of procedure, so long as they conform to "generally accepted principles of parliamentary procedure". *Robert's Rules of Order* is used in many cases for legislative bodies, but is fairly complex and too detailed for smaller governmental bodies. The Institute of Government has drafted suggested rules of procedures for Boards of County Commissioners (*Suggested Rules of Procedure for the Board of County Commissioners*) that are a modified and simpler version of *Robert's Rules of Order*. A draft of these rules has been created incorporating existing Pender County practices, a copy of which is attached.

SPECIFIC ACTION REQUESTED: To discuss and possibly vote to adopt rules of procedure.

COUNTY MANAGER'S RECOMMENDATION

The Board has adopted various rules governing the meetings and agenda preparation, however no comprehensive rules of procedure have been adopted or implemented in recent years to my knowledge. A set of rules would provide for consistency in preparing the agendas and in addressing agenda items, and they can be amended by the Board at any time as necessary.

BB
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

_____

The County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED_____ SECONDED_____

APPROVED_____ DENIED_____UNANIMOUS

YEA VOTES: Tate___ Brown ___ Blanchard ___ Rivenbark ___ Williams ___

_____ _____
Jimmy T. Tate, Chairman Date

_____ _____
ATTEST Date

PENDER COUNTY
Board of Commissioners Rules of Procedure

DRAFT

I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Board of Commissioners of Pender County at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

II. Open Meetings

Rule 2. Meeting to Be Open

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

(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.

Rule 3. Closed Sessions

(a) Notwithstanding the provisions of Rule 2, the board may hold a closed session and exclude the public under the following circumstances and no others:

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 is not considered a public record within the meaning of Chapter 132 of the General Statues.

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 public body in order to preserve the attorney-client privilege between the attorney and the public body, 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 public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body 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 public body 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 public body 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 public body, including agreement on a tentative list of economic development incentives that may be offered by the public body 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 open session.

5. To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body 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 public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body 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 public body 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) The board may go into closed session only upon motion made and adopted at an open meeting. A motion to go into closed session must cite one or more of the permissible purposes listed in subsection (a) of this rule. In addition, a motion to go into closed session pursuant to Rule 3(a) (1) must state the name or citation of the law that renders the information to be discussed privileged or confidential, and a motion to go into closed session pursuant to Rule 3(a) (2) must identify the parties in each existing lawsuit, if any, 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 may attend the closed session. No other person may attend the closed session unless specifically invited by majority vote of the board.

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. Immediately prior to the organizational meeting, the current seated board shall convene a meeting at which the only item of business shall be the approval of previous meeting minutes. *[In the past the outgoing Board has also dealt with "old business"]* Immediately thereafter, the organizational meeting shall convene. The agenda for the 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 attorney 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. *[Also state that a nomination need not be seconded, and a member may nominate him/her self?]*

(b) **Odd-numbered Years.** At the first regular meeting in December of each odd-numbered year, the first order of business shall be election of the chair and vice-chair for the ensuing 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.

IV. Regular and Special Meetings

Rule 6. Regular and Special Meetings

(a) Regular Meetings. The board shall hold a regular meeting on the first and third 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 the motion adjourning the immediately preceding regular meeting. Regular meetings shall be held at the Public Assembly Room at 805 S. Walker St. in Burgaw, and shall begin at 10:00 a.m. on the first Monday and 4:00 p.m. (7:00 p.m. for public hearings) on the third Monday. The board may change the place or time of a particular regular meeting or all regular meetings within a specified time period by motion or resolution adopted, posted, and noticed no less than seven days before the change takes effect. Such a motion or 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.

(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 subjects to be considered. The person or persons who call the meeting shall cause the notice to be posted on the door of the Public Assembly Room at 805 S. Walker Street in Burgaw, 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 who 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 individuals must be renewed on or before the last

day of each calendar quarter. Requests made by news media organizations must be renewed annually on or before January 1, and are not subject to any fee.

(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 motion, 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 held on a regular schedule 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 Pender County except as otherwise provided herein.

1. A joint meeting with the governing board of any other political subdivision of the 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 representing all or any portion of this county to support or oppose any bill pending in the General Assembly or proposed for introduction therein may be held in Raleigh or such other 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 other-wise 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 before 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.

V. Agenda

Rule 9. Agenda

(a) The clerk to the board shall prepare the agenda for each regular, special, and emergency meeting. A request to have an item of business placed on the agenda for a regular meeting must be received at least fourteen calendar days before the 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. A copy of the agenda packet shall be delivered to each member of the board at least twenty-four hours before the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each board member or left at his or her usual dwelling.

(c) The board may, by unanimous vote, add an item that is not on the printed agenda.

(d) The board Chair shall, before action on any resolution or action item (excluding consent items), request public comment on the issue before the Board.

Rule 10. Informal Public Comments

The clerk to the board shall include on the agenda of each regular meeting a period of at least five minutes for comments or questions 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. The chair may specify the time allotted to each speaker. *[Does the Board desire the establish a maximum amount of time for each speaker or group in this section?]* 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. Public Information
2. Consent Agenda
3. Resolutions
4. Appointments
5. Items from the County Manager, County Attorney, Board of Commissioners
6. Public Comment
7. Closed Session (if applicable)
8. Public Hearings (generally scheduled at 7:00 p.m. on the third Monday of each month)

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

VI. Conduct of Debate

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:

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. Presiding Officer When the Chair Is in Active Debate

If the chair wishes to become actively engaged in debate on a particular proposal, he or she shall designate another board member or the attorney to the board to preside temporarily. The chair shall resume the duty to preside as soon as action on the matter is concluded.

Rule 14. Action by the Board

The board shall proceed by motion. Any member, excluding the chair, may make a motion.

Rule 15. Second Required

A motion shall require a second *[May the Chair second a motion?]*

Rule 16. One Motion at a Time

A member may make only one motion at a time.

Rule 17. Substantive Motion

A substantive motion is out of order while another substantive motion is pending.

Rule 18. 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 these rules or the laws of North Carolina.

Rule 19. 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 20. Procedural Motions

(a) In addition to substantive proposals, 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 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.*
3. *To Call to Follow the Agenda.* The motion must be made at the first reasonable opportunity or it is waived.
4. *To Suspend the Rules.* The motion requires a vote equal to a quorum, *[with the exception of a rule which requires a supermajority vote, which thus requires a supermajority vote to suspend that rule.]*
5. *To Divide a Complex Motion and Consider It by Paragraph.*
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.
7. *To Call the Previous Question.* The motion is not in order until every member has had one opportunity to speak.
8. *To Postpone to a Certain Time or Day.*

9. *To Refer to Committee.* Sixty days after a motion has been referred to a 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.
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.
11. *To Revive Consideration.* The motion is in order at any time within one hundred days of vote deferring consideration of it. A substantive motion on which consideration has been deferred expires one hundred days after the deferral, unless a motion to revive consideration is adopted.
12. *To Reconsider.* The motion must be made at the same meeting at which the original vote was taken, and by a member who voted with the prevailing side. The motion cannot interrupt deliberation on a pending matter but it in order at any time before adjournment.
13. *To Prevent Reconsideration for Six Months.* The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion 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.

Rule 21. Renewal of Motion

A defeated motion may not be renewed at the same meeting *[unless renewed by a member who voted against it]*.

Rule 22. Withdrawal of Motion

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

Rule 23. 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 24. 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 25. 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 people at the meeting can understand what is being discussed or acted on.

Rule 26. 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 is it is actually considered by the board, and its introduction shall be recorded in the minutes.

Rule 27. 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 of the board, 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 28. 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 present, he or she 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.

Rule 29. Public Hearings

Public hearings required by law or deemed advisable by the board, except those scheduled as part of a regular meeting and an agenda item, shall be 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.

Rule 30. Quorum at Public Hearings

A quorum of the board shall be required at all public hearings required by law.

Rule 31. Minutes

Minutes shall be kept of all board meetings.

Rule 32. 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.

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.

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.

Rule 33. 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 *Robert's Rules of Order* to resolve procedural questions.

Adopted this the ____ day of _____, 2009.

_____ _____
Jimmy T. Tate, Chairman Date

_____ _____
ATTEST Date