

BOARD OF COMMISSIONERS'

ZONING AND LAND USE

HEARING PROCEDURES

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BOARD OF COMMISSIONERS' ZONING AND LAND USE
HEARING PROCEDURES

These rules, adopted pursuant to O.C.G.A. §36-66-5, are for the purpose of establishing hearing procedures in connection with the conduct of the Cobb County Board of Commissioners' Zoning Meetings.

Purpose: By virtue of a Home Rule Amendment to the Cobb County Planning and Zoning Ordinance adopted on December 11, 1990, (to become effective January 18, 1991), the Cobb County Board of Commissioners has provided for split hearings on rezoning and land use permitting and as part and parcel of that action desire to amend its procedures for conducting public hearings.

Rules of Conduct of Business: Unless otherwise set forth herein, the Board of Commissioners shall conduct the zoning meeting in accordance with the following Rules of Procedure:

PROCEDURE FOR ZONING AND LAND USE HEARINGS

Section 1. Meetings

- A. Regular and special zoning meetings of the Board of Commissioners (also referred herein as the commission, the commissioners, or the board) shall be as determined in accordance with the Zoning and Planning Ordinance of Cobb County. Such meetings shall be convened at 9:00 A.M. on the third Tuesday of each month, excepting only January, or as may be set in accordance with State law, and may not begin before the prescribed time, of which the public has been notified.

- B. An adjourned meeting is a continuation of the meeting immediately preceding, whether a regular or special meeting.
 - a. If the scheduled business of the commission is not completed, due to time constraints or emergency, the meeting shall be adjourned to the following day or a specific day scheduled by the commission, to allow for the completion of pending business.
 - b. In an adjourned meeting (regular or special), only business which would have been proper to consider at that meeting may be considered and acted upon at the adjourned meeting.
 - c. Adjourned meetings resume business under the same rules, limitations and rights as the original meeting for which it was adjourned.

C. Executive Session Meetings

Executive session meetings shall be conducted in accordance with the O.C.G.A. §50-14-3 and §50-14-4, or as these sections may be amended from time to time.

Section 2. Quorum

Any three (3) of the commissioners, or the chairman and any two (2) commissioners, shall constitute a quorum for any meeting of the Board of Commissioners.

- A. If a quorum is not present thirty (30) minutes following the scheduled hour for convening, the chairman, the vice-chairman, or in their absence, the county attorney (or his/her designee) may adjourn the meeting until the next day or by unanimous consent, those present may select another hour and day.

- B. If during the meeting there ceases to be a quorum, all business must stop except that the board, by majority vote to be recorded in the minutes (naming those present at the time of the vote) may:
 - a. fix another day at which to reconvene
 - b. adjourn and return at the next regular meeting
 - c. recess to determine if a quorum will be present within a short period of time.

Section 3. Chairman

- A. The chairman shall have the same right and privileges of the other commissioners with respect to rights to make motions, debate and vote. Additionally, his/her duties during meetings shall include:
 - a. presiding over meetings of the commission
 - b. calling the meeting to order at the scheduled hour
 - c. determining that a quorum is present
 - d. preserving decorum and order at all meetings
 - e. making the commissioners aware of the substance of each motion
 - f. calling for the vote
 - g. announcing the results of each vote
 - h. calling for a recess at such times as deemed advisable
 - i. other duties as prescribed in the Zoning and Planning Ordinance of Cobb County.

Section 4. Vice-chairman

The vice chairman shall be selected in accordance with provisions of the Official Code of Cobb County, Georgia, and shall also serve as vice chairman for the conduct of zoning and land use hearings.

Section 5. Absence of chairman and vice-chairman

In the absence of the chairman and vice-chairman, the clerk or county attorney shall determine whether a quorum is present and if a quorum is present, shall call for the election of a temporary chair. The temporary chair shall preside over that meeting or until the conclusion of the business immediately pending at the time the chairman or vice-chairman arrives.

Section 6. Minutes

- A. All actions of the commission, except for actions described in the O.C.G.A. §50-14-3 and §50-14-4, or as these sections may be amended from time to time, shall be accurately recorded by the clerk (or his/her designee) in the minutes, which shall include:
- a. all main motions, substantially as worded when adopted (including amendments or stipulations)
 - b. the name of the maker of all important motions
 - c. disposition of all main motions, whether
 - (1) adopted/(approved/with or without deletions, stipulations or conditions)
 - (2) defeated/denied/rejected
 - (3) referred to committee or to staff for further information or recommendations
 - (4) postponed/held until ____ (a definite time)
 - (5) continued
 - (6) withdrawn with (or without) prejudice
 - (7) dismissed with or without prejudice

- d. how each commissioner voted
 - e. a commissioner's comments are only printed in the minutes if, when requested by the commissioner, the majority votes (or agrees by unanimous consent) to have the remarks included.
- B. The responsibility for correcting and approving the minutes shall be vested only in the members of the commission and shall indicate their approval. The minutes may be corrected whenever an error is noticed, regardless of the time which has elapsed.¹
- C. The minutes shall be attested to by the clerk or deputy clerk.

Section 7. Zoning Agenda

- A. An agenda for the meetings will be established by the Zoning Division Manager, and prepared by the Clerk to be available to the commissioners in advance of the regular meeting.
- B. While it is usual for unfinished business (that referred or held from another meeting) to be considered after new business, the order of business listed in the agenda summary may be changed when it seems advisable by unanimous consensus or upon a 4/5² vote of the commission. Should only four (4) members of the commission be present, a unanimous vote shall be required.

¹ Mason, Paul. Mason's Manual of Legislative Procedure. The American Society of Legislative Clerks & Secretaries in cooperation with the National Conference of State Legislatures, 1989.

² Rationale: Frequently the business can be facilitated by changing the order in which business is considered. Since items are not designated a specific time, it is the responsibility of the interested parties to be available throughout the meeting until items which interest them have been disposed of.

Section 8. Zoning Agenda Items

Consent Agenda

- A. A portion of the agenda may be designated as a consent agenda by the Zoning Division staff as recommended by the Planning Commission and all items contained therein may be voted on en gross.

- B. Prior to any item being considered on any consent agenda, the applicant or representative must obtain and review all staff comments, conditions, and stipulations and acknowledge in writing their agreement.

- C. Prior to the vote on the consent agenda, any commissioner or any citizen may have an item withdrawn from the consent agenda or upon objection by the applicant of any comment, stipulation or condition the case shall be withdrawn, so that it shall be placed on the Regular Agenda for a full public hearing.

Continued Case Agenda

- A. These are cases where public hearings were not conducted due to mutual consent by the applicants and opponents or due to reasons set forth within the Planning and Zoning Ordinance.

- B. Continued cases are voted on following a public hearing conducted in accordance with the procedures outlined under the Regular Agenda Section below.

Regular Agenda

- A. These are cases, which, in the opinion of staff or the Planning Commission, raise issues which should be considered following a full public hearing.
- B. Each case will be considered in the order assigned it in the Zoning Agenda Summary except when agreed upon by unanimous consensus or upon a 4/5 vote of the commission.
- C. State law requires applicants and opponents of cases to complete and file zoning disclosure forms, as applicable.
- D. Representatives/applicants, as a group, and representatives/opponents, as a group, shall be given a maximum of ten (10) minutes for each side to present its case, unless, by general consensus, more time is allotted by the Board of Commissioners. The Clerk shall be responsible for keeping time. Any groups which are present are encouraged to choose a spokesperson to present their views.
- E. As each case is called, all witnesses for the applicant and opponents shall first be sworn prior to making their presentations.
- F. Voting on cases on the Regular Agenda will take place as to each case immediately following the close of the public hearing of the same case. (as amended 4/26/1994)
- G. No further public input will be allowed except responses to questions asked by the commissioners.

Held Case Agenda

- A. These are cases where public hearings have already been held; however, the commissioners delayed action due to the need for additional information or evaluation.
- B. The Zoning Division Manager or his/her designee shall present information to the Commission. Public input shall be allowed as provided for within Section 8, Regular Agenda, D., E., F., and G., herein. (as amended 8/17/1999)
- C. These cases will be voted on following the presentation and questions.

Other Business

Included are items which are placed on the agenda for clarification or direction by Staff, which may or may not require official Board action, may be handled without a public hearing. The Other Business agenda may also include consideration of site plans, consideration of minor site plan amendments and minor stipulation amendments, consideration of settlements of litigation and consideration of overlay district applications, which will provide for public input as established below in items A, B, C and D.

- A. Consideration of site plans for approval or denial that appears on the Other Business Agenda will be posted for a period of not less than thirty (30) days. Public input shall be allowed as provided for within Section 8, Regular Agenda, D., E., F., and G., herein. Information shall be processed, reviewed by applicable county staff and available to the public in accordance with Section 12, Filings and Exhibits, herein.

- B. Consideration of minor site plan amendments and minor stipulation amendments will be posted for a period of not less than fifteen (15) days. Public input shall be allowed as provided for within Section 8, Regular Agenda, D., E., F., and G., herein. Information shall be processed, reviewed by applicable county staff and available to the public in accordance with Section 12, Filings and Exhibits, herein.
- C. Consideration of settlements of litigation will be posted for a period of not less than thirty (30) days. Public input shall be allowed as provided for within Section 8, Regular Agenda., D., E., F., and G., herein. Information shall be processed, reviewed by applicable county staff and available to the public in accordance with Section12, Filings and Exhibits, herein.
- D. Consideration of overlay district applications will be posted for a period of not less than fifteen (15) days. Public input shall be allowed as provided for within Section 8, Regular Agenda, D., E., F., and G., herein. Information shall be processed, reviewed by applicable county staff and available to the public in accordance with Section12, Filings and Exhibits, herein.

(as amended 5/11/2004)

Section 9. Non-agenda Items

A non-agenda item shall be defined as that which is deemed by a commissioner to require urgent attention but has not been placed on the published agenda.

- A. Adequate information, including the specific topic, shall be given on any items requested to be added as non-agenda items.
- B. A vote of 4/5 shall be required to add a non-agenda item. Should only four (4) members of the commission be present, a unanimous vote shall be required.

Section 10. Comprehensive Plan and Future Land Use Map Amendments

- A. The Board of Commissioners, either on its own request, or through the Planning Commission or Planning Division, shall be responsible for considering and adopting amendments to the Comprehensive Plan and Future Land Use Map.
- B. At least two (2) public hearings shall be conducted by the Board of Commissioners following advertisement and posting at least fifteen (15) days prior to consideration of adoption of the proposed amendments.
- C. Any person desiring to speak at a public hearing either for or against a text or map amendment shall be limited to a three (3) minute presentation or may submit any and all materials in writing to the clerk.
- D. Following the public hearings and upon receipt of the Planning Commission report and recommendation, or expiration of thirty (30) days, whichever is sooner, the Board of Commissioners may act on the proposed amendments as set forth herein.

Section 11. Voting Session

- A. All votes shall be taken by either raised hand, or electronic means, at the discretion of the Acting Chairman, except those which the chair handles through unanimous consent, i.e., "If there are no objections...". A single objection will require that a counted vote be taken. An affirmative vote of at least three commissioners, or the chairman and two commissioners, shall be required to adopt a motion, except where otherwise indicated.

- B. When an entire section of the agenda has been moved to be voted upon by an en gross vote, a commissioner may, without discussion, state that he/she is voting in the affirmative on all of the agenda items contained within that section of the agenda except certain ones (which he/she will name by number). In such cases, the vote of the commissioner(s) will be recorded as negative for the items named.
- C. If a motion has been voted on without discussion and a commissioner feels that it is necessary to explain his/her vote, he/she may have no more than one minute to give public reasons for his/her vote. This shall not be construed as an opportunity to repeat discussion that has already taken place at the same meeting.
- D. A tie vote shall cause all procedural motions to be defeated. A tie vote on a main motion shall keep the motion as pending before the Board and the motion shall be rescheduled for another time (as amended 10/19/2004)
- E. No commissioner who is present at any meeting of the commission at which an official decision, ruling or other official act is to be taken or adopted may abstain³ from voting in regard to any decision, ruling, or act, and a vote shall be recorded or counted for each such commissioner present, except when, with respect to any such commissioner, there is or appears to be a possible conflict of interest⁴ as an ethical consideration requires abstaining. In such cases the abstaining commissioner shall give his/her reason for abstaining.

³ "It is a general rule that a legislative body cannot only compel the attendance of its members but that it can also require them to vote unless excused by the body from voting." Mason's Manual of Legislative Procedure.

⁴ "It is a general rule that no members can vote on a question in which they have a direct personal or pecuniary interest. The right of members to represent their constituencies, however, is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal." Mason's Manual of Legislative Procedure.

Section 12. Public Participation in Board Meetings

The Cobb County Board of Commissioners welcomes visitors to board meetings and is willing to hear any person or persons desiring to appear before the board subject to these rules as follows:

- A. All remarks must be related to the issue. No person shall be allowed to make impertinent, derogatory, offensive or slanderous remarks while addressing the commission.
 - a. A person may be barred from further speaking before the commission in that meeting if his/her conduct is deemed "out of order".
 - b. A person, once barred for improper conduct shall not be permitted to continue or again address the commission in that meeting unless a majority vote of the commission allows.
 - c. In the event the speaker thus barred fails to obey the ruling, the chair may take such action as is deemed appropriate, including the removal of such person from the assembly.
 - d. The commission may bar a person from addressing commission meetings for up to sixty (60) days for improper conduct.
 - e. A person barred by the commission for this period may request a hearing, by written request to the chair stating reason(s) for a reversal of the decision.
 - f. The hearing shall be placed on the agenda and heard by the commission. A 4/5 vote of the entire board shall be required to overturn the previous decision to bar the person(s).

Filings and Exhibits

- A. All documentation and exhibits shall be marked and filed with the clerk prior to presentation to the commissioners
- B. The deadline for receiving any additional information, changes or modifications, not related to Other Business as specified in item C. below (as amended 5/11/04), for consideration by the commissioners shall be 12:00 Noon on Wednesday of the week preceding the public hearing. (amendment of 11/16/1999, effective 1/1/2000.) The information shall be available to the public at that time. (as amended 5/11/2004) In the event an applicant or opposition submits revised plats or revised information, changes or modifications after such cut-off, the applicant or opposition shall provide copies of said revisions, changes or modifications to all interested parties and (as amended 5/11/2004) shall only be allowed to present such documentation at the public hearing. It shall be in the Commission's discretion as to whether or not it desires to accept the information, changes or modifications and further determine if the information merits holding the application until the next regular hearing. Should an applicant turn in such material late a second time for a regularly scheduled public hearing, then it shall be grounds to dismiss the application with prejudice, hold or continue the application.

C. The deadline for filing Other Business items such as consideration of site plans and consideration of settlements of litigation by the commissioners shall be 12:00 Noon thirty days prior to the scheduled public hearing. The information shall be available to the public at that time. The deadline for filing Other Business items such as consideration of minor site plan amendments, minor stipulation amendments and overlay district applications by the commissioners shall be 12:00 Noon fifteen days prior to the scheduled public hearing. The information shall be available to the public at that time. In the event an applicant or opposition submits revised plats or revised information, changes or modifications after such cut-off, the applicant or opposition shall provide copies of said revisions, changes or modifications to all interested parties and shall only be allowed to present such documentation at the public hearing. It shall be in the Commission's discretion as to whether or not it desires to accept the information, changes or modifications and further determine if the information merits holding the application until the next regular hearing. Should an applicant turn in such material late a second time for a regularly scheduled public hearing, then it shall be grounds to dismiss the application with prejudice, hold or continue the application. (amendment of 5/11/2004).

PROCEDURE IN MEETINGS

Section 13. Motions

Prior to taking the vote, the chair, or at his request the clerk, should state the motion (or resolution) or its substance.

Section 14. Ranking motions

- A. These motions shall take precedence in order in which they are listed below:
 - a. Adjourn
 - b. Recess
 - c. Motions of privilege
 - d. Call the question
 - e. Limit discussion or debate by the commission
 - f. Hold/continue until a time certain/dismiss/withdraw
 - g. Refer back to staff/committee; or refer to staff/ committee
 - h. Amend
 - i. Main motion

Section 15. Main Motion

A main motion shall be a motion whose introduction brings business before the commission.

A. Assumed Main Motions

A recommendation from staff, or another item published in the agenda for action, shall be handled as an Assumed Main Motion by the chair. That is, the chair shall, upon the conclusion of a report state, "The question (or motion) before you is..." (stating the motion in the affirmative)⁵. No second⁶ will be required in these instances and the chair, in assuming such motion, is not presumed to be in favor of the motion and may speak against it if he/she so wishes.

- (1) Possible dispositions of such a motion assumed by the chair include:
 - (a) Adopt
 - (b) Amend and adopt with amendments (or stipulations)
 - (c) Defeat
 - (d) Refer back to staff/committee; or refer to staff/committee
 - (e) Hold until _____ (a definite time)
 - (f) Withdraw with or without prejudice
 - (g) Dismiss with or without prejudice

- (2) Incidental motions such as consider en gross, consider paragraph, divide the motion (each described in Section 28) may also be applied to such assumed motions.

⁵ "It is preferable to avoid a motion containing a negative statement even in cases where it would have a meaning, since members may become confused as to the effect of voting for or against such a motion." Robert, Henry M. Robert's Rules of Order Newly Revised. Scott, Foresman and Company, 1990.

⁶ "The requirement of a second is for the chair's guidance as to whether he should state the question on the motion, thus placing it before the assembly." Robert's Rules of Order Newly Revised. It has already been determined that such item(s) are to come before the commission.

B. Other Main Motions

(Those incidental or relating to business of the commission, or its past or future action, or arising as Non-agenda Items [see Section 9]) shall require a second⁷, and, if such motions fail to obtain a second the chairman shall state, "Since there is no second, the motion is not before this meeting."

Section 16. Amend

- A. If a commissioner feels that the main motion might be more acceptable in a way other than the way presented, the commissioner may amend through substitution, insertion of stipulations/conditions, striking out portions, or striking out and inserting portions. Such proposed amendments shall be handled in one of the following ways:
- (1) by unanimous consent of the commissioners. The chair, or another commissioner, through the chair, may suggest changes or stipulations, and if there are no objections from the commissioners the motion shall be amended by unanimous consent.
 - (2) with a second, discussion and a majority vote, on the proposed amendment.
- B. If a proposed amendment fails to obtain unanimous consent or a majority vote, or lacks a second, the main motion considered shall be the one originally presented.

⁷ The commissioner who seconds a main motion, or any procedural motion, implies that he/she wishes that the motion be discussed and voted upon, but does not indicate support for the motion and may speak for or against the motion.

- C. An amendment must be germane (relating to the substance of the main motion) and may not introduce an independent question.

- D. Improper amendments shall be:
 - (1) one which is not germane
 - (2) one which would make the adoption of the amended motion equivalent to a rejection of the motion
 - (3) one which is frivolous or absurd

Section 17. Refer

If the commissioners feel that adequate information has not been given, the board may, by majority vote, refer the motion to staff (or an agency, committee, etc.) for more information. A date shall be set for hearing the additional information. This motion shall require a second and shall be debatable only as to whether or not it shall be referred, to whom it shall be referred, or when the person to whom it is referred shall report back. If the motion fails, the motion to be considered shall be that motion which was on the floor prior to the motion to refer.

Section 18. Hold/Continue Until a Time Certain

A motion to hold or continue to a time certain (postpone) may be used if a majority of the commission feel that the motion before them should be considered at a more convenient time or if the discussion shows that a final decision should be made at a later time or date. This motion shall be used if the commissioners themselves feel that they may obtain the information that is needed or that the facts as presented are not adequate for their final vote. A second shall be required and discussion shall be limited to the reason for holding the motion or the time to which it is to be held. If the motion fails, the motion to be considered shall be that motion which was on the floor prior to the motion to hold.

Section 19. Limit Discussion or Debate by the Commission

If a commissioner feels that a set period of time for discussion of a motion should be limited as to time for the motion as a whole, or as to individual time given, the commissioner may move to "limit discussion (or debate) to __ minutes." This motion shall require a second and no discussion on the motion shall be allowed. It shall require a 4/5 vote to adopt. Should only four (4) members of the commission be present, a unanimous vote shall be required.

Section 20. Call the Question

A commissioner may "call the question" (a motion to end discussion) when it is clear that further discussion is unnecessary or that discussion is becoming repetitive. This motion shall require a second and no discussion on the motion shall be allowed. It shall require a 4/5 vote to adopt. Should only four (4) members of the commission be present, a unanimous vote shall be required.

Section 21. Motions of Privilege

If any matters occur such as to impede a commissioner in attending to the business, e.g., too much noise, the microphone not working, matters that affect the safety, orderliness, or comfort of the commissioners, or that affects the honor of an individual commissioner, such commissioner may state to the chairman that he/she has a question of privilege and the matter must be addressed before the pending business of the commission continues. No vote is required unless a motion arises out of the privilege.

Section 22. Recess

A recess may be taken as it appears on the agenda or declared by the chair when he/she deems it advisable or by a motion from a commissioner. If the motion is made by a commissioner, a second and an affirmative majority vote shall be required to recess.

Section 23. Adjourn

The highest ranking motion shall be the motion to adjourn, requiring a second and a majority vote with no discussion allowed, except that the motion shall contain a time to hear any non-completed items on the agenda, if such exist. If all business on the agenda has been completed, the chair may assume the motion, and without a second, obtain unanimous consent to adjourn.

Section 24. Motions Used to Bring Back an Issue

Except as otherwise provided by law, if a commissioner wishes to bring back to the board a matter which has been adopted, he/she may do so through the motions to reconsider, rescind, and amend something previously adopted. These shall have the same rank as a main motion.

Section 25. Amend Something Previously Adopted

If a commissioner wishes to amend an action taken at a previous meeting, the motion to amend something previously adopted should be used. This motion shall be used when a matter which was previously adopted by the commission needs to be amended. A second shall be required and full discussion shall be allowed. If the item has been listed on the published agenda a majority vote shall be required for adoption. A vote of 4/5 shall be required if the item is not on the published agenda. Should only four (4) members of the commission be present, a unanimous vote shall be required.

Section 26. Reconsider.

In the same zoning meeting and before any break or any succeeding agenda item has been called by the chairman, if any commissioner believes that a different result might better reflect the will of the board, any commissioner (regardless of how he/she originally voted on the matter) may move to reconsider the vote with respect to any zoning matter. A motion to reconsider may be applied to a vote that was either affirmative or negative and shall propose no specific change in a decision but simply shall propose that the motion be reopened for discussion and another vote taken. A second shall be required to this motion and discussion shall be allowed as to the reasons for wishing to reconsider the vote. A majority vote shall be required to adopt the motion to reconsider. If the motion to reconsider is adopted, a new motion on the substantive matter will be in order. The new substantive motion will require a second, will allow discussion, and will require a majority vote to adopt. (as amended 1/28/2003)

Section 27. Rescind.

If a commissioner wishes to annul an action taken on a previous agenda item in the same zoning meeting or at a previous meeting on any zoning matter, the motion to rescind may be used. The motion to rescind shall require prior notice at a regularly scheduled regular meeting or zoning meeting of the intent to rescind a motion at the next scheduled zoning meeting.

The motion to rescind shall not be in order if:

- A. the motion to reconsider may be made, i.e., at the same meeting prior to the call of the succeeding agenda item; or
- B. the motion to reconsider was taken and lost; or
- C. only part of the action is proposed to be changed, in which case the motion to “amend something previous adopted” shall be used; or
- D. something has been done as a result of the vote to implement the earlier action adopted.

The motion to rescind shall be placed on the agenda for the following regularly scheduled zoning meeting. The property shall immediately be posted with an appropriate sign of a color different from the initial rezoning sign, and notification shall be provided by staff by telephone or mail to known interested parties. At the subsequent zoning meeting, when the motion to rescind is made, a second shall be required, and discussion may go into the merits of the motion to rescind. A majority shall be required to pass the motion to rescind after such prior notice. If the motion to rescind is adopted, a public hearing shall be conducted, after which a new motion on the substantive matter will be in order. The new substantive motion will require a second, will allow discussion, and will require a majority vote to adopt. (as amended 1/28/2003)

Section 28. Incidental Motions

Incidental motions have no rank but shall be decided immediately before business may proceed and may be used throughout the meeting as follows:

- A. **Point of Information** A point of information is a request, directed to or through the chair for information relevant to the business at hand but not related to parliamentary procedure.

- B. **Point of Order** A commissioner may call for a point of order if he/she believes that the chair has failed to notice a breach in the rules. This point of order shall require the chair to make a ruling on the question involved.

- C. **Appeal From the Chair's Decision** Whenever a commissioner believes that the chair is mistaken in his/her ruling, a commissioner may appeal from the chair's decision. An appeal shall require a second and shall be debatable with the chair speaking first explaining his/her ruling, and the chair may close out the debate by a statement at the end defending the ruling. An appeal may be made only on a ruling and may not be made:
 - (a) in response to a parliamentary inquiry or point of information

 - (b) in areas that challenge verifiable rulings of factual nature. The chair shall state the motion as "Shall the chair's decision be sustained?" A tie vote shall sustain the chair because a majority of those voting shall be required to overturn the chair's ruling.

- D. **Parliamentary Inquiry** A parliamentary inquiry is a question directed to the chair to obtain information on a matter of parliamentary law or the rules of the commission. The chair will answer such questions or may ask the county attorney or parliamentarian for an opinion. The chair's reply, whether or not he/she has requested advice from the county attorney or parliamentarian, is not a ruling, but is an opinion. If a commissioner does not agree with the chair's opinion, he/she may act in a way contrary to this opinion, and if ruled out of order, may then appeal the chair's ruling. The chair is not obligated to respond to hypothetical questions.
- E. **Divide the Motion** If the motion presented contains two or more parts capable of standing as separate motions, a commissioner may move to "divide the motion." This motion shall require a second and discussion shall be allowed only on why it should or should not be divided. A majority vote shall be required to adopt the motion to "divide the motion."
- F. **Consider by Paragraph** If a main motion is in the form of a resolution or document containing several paragraphs or sections which are not separate motions but could be discussed more efficiently if it is discussed in sections, the motion to discuss by paragraphs, sections, or numbered agenda items, may be made. A second shall be required and discussion shall be brief as to the necessity for the action. A majority vote shall be required to "consider by paragraphs, sections, or numbered agenda items".

- G. **Request to Withdraw a Motion** Once a motion has been moved and seconded it belongs to the entire commission and not to the maker of the motion; therefore, if a commissioner wishes to withdraw a motion that is officially before the board, action of the board must be taken in either of the following ways:
- (a) The chair may ask the board if there are any objections to the motion being withdrawn. If there are no objections, the motion shall be withdrawn by unanimous consent, without the need for the seconder to withdraw his/her second.
 - (b) If there is an objection to the motion being withdrawn then the chair shall take an official vote, a second is required. A majority vote shall be required to adopt the motion to "withdraw the motion."
- H. **Consider En Gross** If a commissioner feels that time could be saved by acting on all of the agenda items within a section of the agenda, he/she may move that it be "considered en gross." (See Sections 8A, 11B and 15A, subsection 2)
- I. **Filling a Blank** When several alternatives need to be considered (such as staff recommendations that propose various options for the board to consider), unlimited choices may be considered by "filling the blank" in the motion.
- (a) No commissioner may suggest more than one proposal for filling the blank without unanimous consent from the other commissioners.
 - (b) Each proposal shall be debatable and shall be treated as an independent item to be voted on separately until one has been approved by a majority. As soon as one proposal has received a majority, no other shall be considered.

- (c) Alternatives (from staff recommendations and/or suggestions by commissioners) are listed in logical order for voting:
- (1) names are listed in the order in which they were proposed
 - (2) other proposals are listed in the order of their probable acceptability, beginning with the least popular choice.

Section 29. Parliamentarian

The county attorney or his/her designee shall serve as parliamentarian and shall advise and assist the chair and the commission in matters of parliamentary law. A professional parliamentarian may be consulted as deemed necessary.

Section 30. Parliamentary Authority

The latest edition of **ROBERTS' RULES OF ORDER NEWLY REVISED** shall govern the Cobb County Board of Commissioners in all areas in which it is applicable and in which it is not inconsistent with these rules adopted by the commissioners or higher law.

Section 31. Amendments

These rules may be amended by a 4/5 vote of the entire commission at a regular meeting or special meeting of the Cobb County Board of Commissioners, provided notice has been given of the amendment(s) at the meeting prior to the vote on the amendment(s).

**APPENDIX
PARLIAMENTARY DEFINITIONS**

The following parliamentary definitions apply to the **RULES OF PROCEDURE FOR THE COBB COUNTY BOARD OF COMMISSIONERS** adopted on January 11, 1994, amended on April 26, 1994 (Section 8, Regular Agenda, paragraph "F"), and comprehensively amended on April 15, 1997; further amended on August 17, 1999 (Held Case Agenda, paragraph "B", and Other Business, paragraph "A"; further amended on November 16, 1999 (Section 12. Filings and Exhibits paragraph "B"); further amended on January 28, 2003 (Section 26. *Reconsider*, and Section 27. *Rescind*); further amended on May 11, 2004 (Section 8. *Other Business*, and Section 12. *Filings and Exhibits*); further amended on October 19, 2004 (Section 11. *Voting Session*, paragraph "D").

adjourn - to officially terminate the meeting

adjourned meeting - a meeting that is a continuation at a later specified time of an earlier regular or special meeting

adopt - to approve or pass by whatever vote is required for the motion

affirmative vote - a vote in favor of the motion as stated

agenda - the official list of items of business planned for consideration during the meeting

approval of minutes - formal acceptance of the record of a meeting thus making this record the official minutes of the commission

board - the Cobb County Board of Commissioners

chair - the presiding commissioner

CODE - Code of Cobb County, Georgia

commissioner - any person named to that position

common parliamentary law - the body of rules and principles that is applied by the courts in deciding litigation involving the procedure of any organization; does not include statutory law or particular rules adopted by any organization or board

convene - to open a meeting

debate - formal discussion of a motion under the rules of parliamentary law and more often, herein, referred to as discussion

defer or hold - to delay action by referring the motion to staff (or an agency, committee, etc.) for more information, or by postponing a vote to a time certain

demand - an assertion of a parliamentary right by a commissioner

dilatory motions or tactics - misuse of procedures or motions that are out of order or would delay or prevent progress in a meeting

floor - when a person receives formal recognition from the chair, he/she "has the floor" and is the only person entitled to speak

germane amendment - an amendment relating directly to the motion to which it is applied

germane discussion - discussion relating directly to the matter involved

hearing - a meeting for the purpose of listening to the views of an individual or of a particular group on a particular subject

in order - permissible and right from a parliamentary standpoint

majority vote - an affirmative vote of at least three commissioners, or the chairman and two commissioners

minutes - the legal record of the action of the commission

motion - a proposal submitted to the commission for its consideration and decision; it is introduced by the words "I move that..."

objection - the formal expression of opposition to a proposed action

order of business - the adopted order in which the business is presented to the meeting of the commission

out of order - not correct, from a parliamentary standpoint, at the particular time

parliamentary authority - the code of procedure adopted by the board as its parliamentary guide, governing in all parliamentary situations not otherwise provided for in the charter, the RULES OF PROCEDURE FOR THE COBB COUNTY BOARD OF COMMISSIONERS, the CODE or higher governing bodies

pending motion - sometimes referred to as pending question; any motion that has been proposed and stated by the chair for the commission's consideration and that is awaiting decision by vote

precedence the rank or priority governing the motion

precedent - a course of action that may serve as a guide or rule for future similar situations

procedural motion - motions to assist the commission in treating or disposing of a main motion; or, motions relating to the pending business or to business otherwise at hand

proposal or proposition - a statement of a motion of any kind for consideration and action

O.C.G.A. - Official Code of Georgia Annotated

quorum - the number of persons that must be present at a meeting of the commission to enable it to act legally on business

recognition - acknowledgement by the chair, giving a person sole right to speak

reconsider - to review again a matter previously disposed of, and to vote on it again; must be made on the same day of business

request - a statement to the chair asking a question or some "right"

rescind - to nullify or cancel out a previous action; cannot be made if action has already been taken to implement the motion it wishes to rescind

resolution - a formal motion, usually in writing, and introduced by the word "resolved" that is presented to the commission for a decision

ruling - the chair's decision as it relates to the procedure of the board

second - a commissioner's statement that he/she is willing to have the motion considered

seriatim - a consideration by sections or paragraphs

statue - a law passed by the legislature

technical inquiry - request for information relevant to the business at hand

tie vote - vote in which the affirmative and negative votes are equal on a motion

unanimous consent - deciding on a vote without voting on it but where no commissioner voices objection; with a single objection a vote must be taken

unfinished business - any business that is postponed definitely to a time certain