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Procedure and Voting Requirements-CLB

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Procedure and Voting Requirements-CLB

Reference Number: CTAS-18

Rules of parliamentary procedure were developed to provide for orderly and courteous meetings. If you have questions about parliamentary procedure at a meeting of your county commission, you should consult your county attorney. You may have your county attorney attend county commission meetings to assist the presiding officer with questions of parliamentary procedure (or be available to provide answers to your questions).

The county legislative body is usually required to follow procedures mandated by state law, but often the state law is silent on the procedures to be followed. Therefore, it is important for county legislative bodies to adopt rules of procedure to follow when the state law does not provide guidance. During the meeting a commissioner should seek recognition in the manner used by the body which is generally by rising or by raising his/her hand. As a parliamentary courtesy, the member who makes a motion is entitled to speak first on the issue and is entitled to close debate but not until every member who desires to speak has been heard. The member should make the motion, without discussion that is not needed to explain the motion, allow for a second, and then be heard on the motion. A member should confine his/her remarks to the question before the body and should avoid personalities.

Many county legislative bodies adopt *Robert's Rules of Order* when parliamentary questions arise that are not specifically dealt with in their local rules. Whenever specifically adopted local rules differ with *Robert's Rules* (unless the local rules provide *Robert's Rules* control), the local rule would control. Neither *Robert's Rules* nor local rules can take precedence over a statute. When there is a conflict between a statute and a rule, the statute controls.

Sample rules of procedure. These are basic rules and it is suggested, as the sample does in Rule 11, to adopt a provision that all matters not covered by state law or the adopted rules be governed by *Robert's Rules of Order Revised* as contained in the latest copyrighted edition.

Sample Meeting Transcript

Reference Number: CTAS-2191

Using the sample agenda, the following is a sample transcript of a meeting that has 19 members and a regular member is serving as chair.

Meeting of CTAS County Commission-Transcript of Dialogue

Chairman Wormsley (at the proper time and place, after taking the chair and striking the gavel on the table): This meeting of the CTAS County Commission will come to order. Clerk please call the roll. (Ensure that a majority of the members are present.)

Chairman Wormsley: Each of you has received the agenda. I will entertain a motion that the agenda be approved.

Commissioner Brown: So moved.

Commissioner Hobbs: Seconded

Chairman Wormsley: It has been moved and seconded that the agenda be approved as received by the members. All those in favor signify by saying "Aye"?...Opposed by saying "No"?...The agenda is approved. You have received a copy of the minutes of the last meeting. Are there any corrections or additions to the meeting?

Commissioner McCroskey: Mister Chairman, my name has been omitted from the Special Committee on Indigent Care.

Chairman Wormsley: Thank you. If there are no objections, the minutes will be corrected to include the name of Commissioner McCroskey. Will the clerk please make this correction. Any further corrections? Seeing none, without objection the minutes will stand approved as read. (This is sort of a short cut way that is commonly used for approval of minutes and/or the agenda rather than requiring a motion and second.)

Chairman Wormsley: Commissioner Adkins, the first item on the agenda is yours.

Commissioner Adkins: Mister Chairman, I would like to make a motion to approve the resolution taking money from the Data Processing Reserve Account in the County Clerk's office and moving it to the equipment line to purchase a laptop computer.

Commissioner Carmical: I second the motion.

Chairman Wormsley: This resolution has a motion and second. Will the clerk please take the vote.

Chairman Wormsley: The resolution passes. We will now take up old business. At our last meeting, Commissioner McKee, your motion to sell property near the airport was deferred to this meeting. You are recognized.

Commissioner McKee: I move to withdraw that motion.

Chairman Wormsley: Commissioner McKee has moved to withdraw his motion to sell property near the airport. Seeing no objection, this motion is withdrawn. The next item on the agenda is Commissioner Rodgers'.

Commissioner Rodgers: I move adoption of the resolution previously provided to each of you to increase the state match local litigation tax in circuit, chancery, and criminal courts to the maximum amounts permissible. This resolution calls for the increases to go to the general fund.

Chairman Wormsley: Commissioner Duckett

Commissioner Duckett: The sheriff is opposed to this increase.

Chairman Wormsley: Commissioner, you are out of order because this motion has not been seconded as needed before the floor is open for discussion or debate. Discussion will begin after we have a second. Is there a second?

Commissioner Reinhart: For purposes of discussion, I second the motion.

Chairman Wormsley: Commissioner Rodgers is recognized.

Commissioner Rodgers: (Speaks about the data on collections, handing out all sorts of numerical figures regarding the litigation tax, and the county's need for additional revenue.)

Chairman Wormsley: Commissioner Duckett

Commissioner Duckett: I move an amendment to the motion to require 25 percent of the proceeds from the increase in the tax on criminal cases go to fund the sheriff's department.

Chairman Wormsley: Commissioner Malone

Commissioner Malone: I second the amendment.

Chairman Wormsley: A motion has been made and seconded to amend the motion to increase the state match local litigation taxes to the maximum amounts to require 25 percent of the proceeds from the increase in the tax on criminal cases in courts of record going to fund the sheriff's department. Any discussion? Will all those in favor please raise your hand? All those opposed please raise your hand. The amendment carries 17-2. We are now on the motion as amended. Any further discussion?

Commissioner Headrick: Does this require a two-thirds vote?

Chairman Wormsley: Will the county attorney answer that question?

County Attorney Fults: Since these are only courts of record, a majority vote will pass it. The two-thirds requirement is for the general sessions taxes.

Chairman Wormsley: Other questions or discussion? Commissioner Adams.

Commissioner Adams: Move for a roll call vote.

Commissioner Crenshaw: Second

Chairman Wormsley: The motion has been made and seconded that the state match local litigation taxes be increased to the maximum amounts allowed by law with 25 percent of the proceeds from the increase in the tax on criminal cases in courts of record going to fund the sheriff's department. Will all those in favor please vote as the clerk calls your name, those in favor vote "aye," those against vote "no." Nine votes for, nine votes against, one not voting. The increase fails. We are now on new business.

Commissioner Adkins, the first item on the agenda is yours.

Commissioner Adkins: Each of you has previously received a copy of a resolution to increase the wheel tax by \$10 to make up the state cut in education funding. I move adoption of this resolution.

Chairman Wormsley: Commissioner Thompson

Commissioner Thompson: I second.

Chairman Wormsley: It has been properly moved and seconded that a resolution increasing the wheel tax by \$10 to make up the state cut in education funding be passed. Any discussion? (At this point numerous county commissioners speak for and against increasing the wheel tax and making up the education cuts. This is the first time this resolution is under consideration.) Commissioner Hayes is recognized.

Commissioner Hayes: I move previous question.

Commissioner Crenshaw: Second.

Chairman Wormsley: Previous question has been moved and seconded. As you know, a motion for previous question, if passed by a two-thirds vote, will cut off further debate and require us to vote yes or no on the resolution before us. You should vote for this motion if you wish to cut off further debate of the wheel tax increase at this point. Will all those in favor of previous question please raise your hand? Will all those against please raise your hand? The vote is 17-2. Previous question passes. We are now on the motion to increase the wheel tax by \$10 to make up the state cut in education funding. Will all those in favor please raise your hand? Will all those against please raise your hand? The vote is 17-2. This increase passes on first passage. Is there any other new business? Since no member is seeking recognition, are there announcements? Commissioner Hailey.

Commissioner Hailey: There will be a meeting of the Budget Committee to look at solid waste funding recommendations on Tuesday, July 16 at noon here in this room.

Chairman Wormsley: Any other announcements? The next meeting of this body will be Monday, August 19 at 7 p.m., here in this room. Commissioner Carmical.

Commissioner Carmical: There will be a chili supper at County Elementary School on August 16 at 6:30 p.m. Everyone is invited.

Chairman Wormsley: Commissioner Austin.

Commissioner Austin: Move adjournment.

Commissioner Garland: Second.

Chairman Wormsley: Without objection, the meeting will stand adjourned.

Voting

Reference Number: CTAS-661

There are many methods of taking votes. Those most often used are: voice, roll call vote, raising the right hand, rising, or "aye" or "no." Many groups use ballot voting, but it must be remembered that secret votes are prohibited in meetings of the county legislative body. All votes must be a public vote. T.C.A § 8-44-104. There are no provisions in the law allowing voting by proxy.

For voice voting, the following form is very common: "It has been moved and seconded that: (state the question). As many as are in favor of the motion say aye," and after the affirmative voice is expressed, "those who are opposed say nay or no." The same type of language is used when calling for a vote by show of hands or asking the membership to rise to express their votes.

When a voice vote is taken, the chair should announce the results in the following form: "The motion or resolution is carried - the motion or resolution is adopted." If, when the results are announced, any member doubts the vote, that member may call for a "division." The chair will announce that "a division is called for" and the vote will be verified by a roll call or a show of hands. Votes will be counted and the results announced.

Another type of voting is called voting by "yeas" and "nays." In this method, the chair states both sides of the question at once. The County Clerk then calls the roll and each member answers yes or no. Each member's vote on the issue is recorded by the member's name and the total affirmative and negative vote is counted and the results are announced by the chair.

A roll call vote is required when the county legislative body is making an appropriation of money. T.C.A. § 5-9-302.

Quorum Requirements

Reference Number: CTAS-662

Voting. A majority of all the members constituting the county legislative body, and not simply a majority of the quorum, is required to take any action, including making appointments, filling vacancies, fixing salaries, appropriating money, and transacting any other business coming before the county legislative body in regular or special meetings. T.C.A. §§ 5-5-108 and 5-5-109. The majority vote requirement means a majority of the actual membership at the time and not a majority of the total authorized membership, so a vacancy would not be counted in determining the required majority. *Bailey v. Greer*, 468 S.W.2d 327 (Tenn. Ct. App. 1971).

Questions often arise as to the effect of an abstention or "pass" vote. If a member abstains from voting

or "passes" for any reason other than a statutory conflict of interest, the vote has the practical effect of a "nay" vote. It is not counted as one of the required "yea" votes necessary to meet the majority approval required for adoption, and yet it must be counted in determining the number necessary for a majority. Attorney General Opinion 86-17 (1/1/86). If, however, a member abstains from voting because of a statutory conflict of interest, that member is not counted for purposes of determining the number necessary for a majority. T.C.A. § 5-5-102(c)(3)(B).

While most business coming before the Commission requires a simple majority vote, some measures require a "supermajority" vote of two-thirds (2/3) of the members. This is true for the approval of private acts, as well as for imposing some tax measures. Where a supermajority is required, it will be stated in the enabling legislation (general law or private act).

The following chart illustrates the number of votes required for a majority of the county legislative body.

Number of Members	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
Majority	5	6	6	7	7	8	8	9	9	10	10	11	11	12	12	13	13
Two-Thirds	6	7	8	8	9	10	10	11	12	12	13	14	14	15	16	16	17

For example, if your county commission has 19 members, 10 votes are needed to pass a resolution (unless there is a vacancy or a member abstains due to a T.C.A. § 12-4-101 conflict of interest, and announces that intention to the chairman of the legislative body). If 15 of the 19 members are present at the meeting, 10 votes are still needed. If a county legislative body has 15 members, 10 of whom are present for a meeting, all ten of those would have to vote in the affirmative in order to pass a measure requiring a two-thirds vote; eight of the ten present would constitute a majority.

Tie votes - If the County Commission is equally divided on any vote, then and only then a county mayor chair may, but is not required, to cast the deciding vote. A member serving as chairman votes as a regular member and cannot vote a second time to break a tie. T.C.A. § 5-5-109.

Procedure - All business for action of the county legislative body must be presented to the chair who announces the business to the body and takes the vote which is recorded by the county clerk. The body cannot act on any business which is not presented to the chair unless the body decides to do so by a majority of those present. T.C.A. § 5-5-110.

Types of Motions

Reference Number: CTAS-2192

Review the following chart to learn about the different types of motions. Motions that are not debatable are immediately put to a vote.

Motion	Second Debate or Needed?	Discussion?	Amendable?	Majority or Two-Thirds Vote?
Main Motion-Present business to the body. Only one main motion can be considered at a time.	Yes	Yes	Yes	Majority, except when two-thirds is required by law.
Subsidiary Motions-These motions are not questions before the body by themselves but relate to a main motion (or resolution) that is before the body. They may be made after the main motion and must be dealt with before voting on the main motion to which it relates. Yields to privileged and incidental motions. Listed in order of rank (meaning a motion of higher rank can always be entertained while a lower rank motion is pending, but not vice versa; there can be more than one subsidiary motion at a time - for example, a motion to amend a main motion, or an amendment, may be "tabled").				
Table (Is immediately put to a vote; if not taken from the table in the same meeting, the motion is dead; generally used as an attempt to kill a motion.)	Yes	No	No	Majority
Previous question call for a vote, close debate (This motion is to cut off debate and force a vote on the issue.)	Yes	No	No	Two-thirds (Remember, this is under <i>Robert's Rules</i> ; local rules may only require a majority.)

Limit or extend debate (Limit discussion to a certain time.)	Yes	No	No	Two-thirds (Remember, this is under <i>Robert's Rules</i> ; local rules may only require a majority.)
Postpone to a certain time	Yes	Yes	Yes	Majority
Amend a main motion (If adopted, the chairman should restate the main motion, as amended before the vote.)	Yes	Yes, but debate should be confined to the amendment	Yes, but only once (Amendments to a main motion can be amended, but an amendment to an amendment cannot be amended.)	Majority
Postpone indefinitely	Yes	Yes	Yes	Majority

Incidental Motions-These motions are of no special rank, but yield to privileged motions meaning that if one of these motions is before the body and one of the privileged motions listed below is made, the privileged motion will have to be voted on or withdrawn before the body can proceed to consider these incidental motions. Otherwise, these motions are dealt with as they arise and take precedence over subsidiary motions.

Point of order (A member may interrupt the speaker who has the floor for this motion.); the chair deals with this motion.

Withdraw a motion	No	No	No	Majority (However no vote is taken unless there is an objection to the withdrawal.)
Suspend the rules (To allow the county commission to violate its own rules; the rules should provide the method for "suspending the rules".)	Yes	No	No	Two-thirds (Remember, this is under <i>Robert's Rules</i> ; local rules may only require a majority.)
Method of voting	Yes	No	Yes	Majority

Request for information; the chair deals with this motion.

Question of quorum; the chair deals with this motion.

Privileged Motions-These motions take precedence over other motions and are allowed to interrupt the considerations of other business. When privileged motions are not interrupting other business, they are main motions.

Fix time to adjourn	Yes	No	Yes	Majority
Adjourn	Yes	No	No	Majority

Recess	Yes	No	Yes	Majority
<p>Raise question of privilege (To bring up an urgent matter such as noise, discomfort, etc.); the chair deals with this motion.</p> <p>Call for orders of the day (Keep the meeting to the order of business or agenda that is adopted); the chair deals with this motion.</p>				
<p>Unclassified Motions-These are main motions that are often used to take up business again. They are not ranked.</p>				
Take from table (This is to bring up for consideration a motion or resolution that was tabled previously in the meeting)	Yes	Yes	No	Majority
Reconsider (A person on the prevailing side, a person who will change his or her vote, is supposed to make this motion.)	Yes	Yes	No	Majority
Rescind	Yes	Yes	Yes	Majority (A motion to rescind may require a two-thirds vote if the action required a two-thirds vote for passage.)
Ratify	Yes	Yes	Yes	Majority (Private acts and many local option laws require two-thirds vote.)

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