

**PERTAINING TO THE ADOPTION OF  
RULES OF PROCEDURE FOR CONTESTED CASES**

**WHEREAS**, the Board of County Commissioners of Calvert County, Maryland (hereinafter, the "Board of County Commissioners") are called upon, from time to time, to sit in either an administrative or a quasi-judicial capacity and hear, consider, and weigh evidence presented; and

**WHEREAS**, in such instances, procedural and substantive due process rights may attach and, therefore, warrant adoption of Rules of Procedure that are fundamentally fair to all parties and that may be applied similarly in each instance without being or appearing to be arbitrary or capricious.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of County Commissioners of Calvert County, Maryland hereby approves and adopts the Rules of Procedure for Contested Cases attached hereto as Exhibit A and incorporated herein by reference.

**BE IT FURTHER RESOLVED** by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Resolution is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Resolution shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Resolution, or unless deletion of the valid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this Resolution.

**BE IT FURTHER RESOLVED** by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are hereby incorporated and adopted as if fully set forth.

**BE IT FURTHER RESOLVED** by the Board of County Commissioners of Calvert County, Maryland that this Resolution shall be effective upon recordation without publication of a fair summary.

**DONE**, this 20<sup>th</sup> day of December, 2016, by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

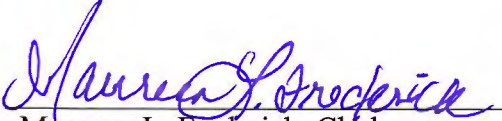
Aye: 5

Nay: Ø

Absent/Abstain: Ø

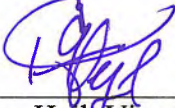
ATTEST:

**BOARD OF COUNTY COMMISSIONERS  
OF CALVERT COUNTY, MARYLAND**


  
Maureen L. Frederick, Clerk

  
Evan K. Slaughterhoup Jr., President

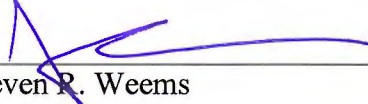
Approved for form and legal  
sufficiency by:

  
Tom Hejl, Vice-President


  
Mike Hart

  
John B. Norris, III, County Attorney

  
Pat Nutter

  
Steven R. Weems

Received for Record.....12/20....., 2016  
at 1:27.....o'clock.....P..M. Same day  
recorded in Liber KPS No. 50  
Folio.....398.....COUNTY COMMISSIONERS  
ORDINANCES AND RESOLUTION.



**RULES OF PROCEDURE  
FOR CONTESTED CASES  
CALVERT COUNTY  
BOARD OF COUNTY COMMISSIONERS**





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**SECTION 1 - APPLICABILITY**

RULE 1-101 These Rules shall be applied to Calvert County Board of County Commissioner hearings held in contested cases, including, without limitation, hearings regarding the removal of members of boards, commissions, committees and counsels, where the right to a hearing is granted by local or State law.

**SECTION 2 - HEARINGS**

RULE 2-101 GENERAL REQUIREMENTS

- A. Scheduling of Hearings: The President of the Board of County Commissioners (hereinafter, the "President") shall be responsible for establishing the date and time of all meetings.
- B. Open Hearings: Evidence shall be presented to the County Commissioners in hearings open to the public in accordance with Rule 2-102 herein.
- C. Conduct of Hearing: The President or his/her designee shall regulate the course of the hearing and shall rule upon procedural matters and objections made during the course of the hearing. In accordance with Resolution 6-89, the individuals attending the meeting shall maintain order and refrain from disturbing the orderly process of the hearing. The President may clear the hearing room of disruptive individuals, or recess the hearing. The President can make such rulings as may be necessary to conduct the hearing in an efficient and orderly manner including, but not limited to, imposing time limitations and excluding irrelevant, repetitive, and/or unreliable evidence or testimony.
- D. Official Record: The Clerk to the Board of County Commissioners shall maintain an official record of its proceedings in each case. This record shall include all testimony and exhibits, including an electronic recording of the proceedings. Transcripts of such recordings shall be made available upon request and at cost to the requesting party. The official records shall be kept in the office of the Clerk to the Board of County Commissioners. All information contained in the official records shall be made available to the public upon request, except privileged correspondence between the Board of County Commissioners and its Counsel.
- E. Persons Wishing to Testify: Persons wishing to testify at Board of County Commissioner hearings shall comply with Resolution 6-89 and the following general requirements:
  - 1. All persons who testify before the Board of County Commissioners shall testify under oath, administered by the

President or the Counsel to the Board of County Commissioners.

2. Each person who testifies shall first give his or her name, address and occupation.
3. The President may set time limitations and otherwise limit testimony as described in 'C' above.

F. Order of Presentation: Each case shall be presented in the following order:

1. The President shall call the case.
2. All persons wishing to testify shall be administered an oath by the President or Counsel to the Board of County Commissioners.
3. The applicant or proponent and any of his or her witnesses shall present his case first, submitting all relevant testimony and evidence in accordance with Rule 2-102 herein. The Board of County Commissioner members or its Counsel may question the applicant or proponent and/or his or her witnesses at any time during the presentation. Adversaries shall have the right of cross-examination.
4. The technical staff shall present any relevant information next, and may question the applicant or proponent or his or her witnesses at this time. The County Commissioners or its Counsel may question staff persons at any time during their testimony.
5. Any person wishing to testify in opposition to or support of the request shall testify next. The County Commissioners or its Counsel may question such persons at any time during their testimony.
6. The applicant or proponent shall be provided a time, after all opposition testimony is heard, to rebut any evidence presented by persons in opposition, provided, however, that if any new material is presented at this time, the other parties have a right to respond to the new material.
7. After all testimony is heard, the Board of County Commissioners shall determine whether the information presented is sufficient for the Board of County

Commissioners to make a decision. If the Board of County Commissioners determines that additional information is needed, a motion shall be made to leave the record open for a specified period of time in order to obtain specific information from the applicant/proponent, staff, the Commissioners' Counsel, or any party specified by the Board of County Commissioners. Any interested party may request that the record be held open for a specified period of time. Such requests shall be granted at the Board of County Commissioners' discretion. If the Board of County Commissioners determine that the information presented is sufficient to make a decision on the request, the President shall accept a motion to close the record and put that motion to officially close the record and a decision shall be made at that time. No additional testimony or evidence shall be submitted to the Board of County Commissioners after the record is officially closed.

G. Requests for Additional Information After Hearing: If the Board of County Commissioners determines that additional information is needed, the Board of County Commissioners may request additional information from the applicant, staff, its Counsel or any party specified by the Board of County Commissioners at the end of the hearing. The requested information may be considered at the next regular scheduled hearing of the Board of County Commissioners, or at a special hearing scheduled by the Board of County Commissioners, at its discretion. If such additional information is requested, the Board of County Commissioners shall send a copy of the materials received in response to that request to any interested parties and, upon receiving the additional information, shall allow a reasonable time for their review and comment on the information prior to making its final decision.

H. Closed Sessions: The Board of County Commissioners may meet in closed session in accordance with Maryland Annotated Code, General Provisions Article, Section 3-305.

The Board of County Commissioners shall not receive any evidence, argument, or other matter in closed session except as provided by Maryland Annotated Code, General Provisions Article, Section 3-305. The Board of County Commissioners shall not hear any interested party in a closed session.

I. Subsequent Hearings: Cases which have not been concluded at the initial hearing may be continued to a day and time announced by the Board of County Commissioners immediately before the initial hearing is suspended.



**RULE 2-102 EVIDENCE**

- A. Rules of Evidence: Any evidence, which would be admissible under the rules of evidence applicable in judicial proceedings in the State of Maryland, shall be admissible in hearings before the Board of County Commissioners. The Board of County Commissioners is not bound by the technical rules of evidence, but will apply those rules so that probative evidence may be conveniently brought forth. The Board of County Commissioners may exclude immaterial or unduly repetitious testimony and other evidence and may limit the number of witnesses when testimony is cumulative in nature.
  
- B. Materials Received by Reference: Public records, previous discussions of the Board of County Commissioners, and laws and regulations of Calvert County which pertain to a particular case shall be received by reference by the Board of County Commissioners for its consideration.

**SECTION 3 - DECISIONS OF THE BOARD OF COUNTY COMMISSIONERS**

**RULE 3-101 ISSUANCE OF ORDERS**

- A. Time Period: Each case shall be decided promptly in consideration of the volume and complexity of the case and testimony.
  
- B. Filing of Decisions: The decision shall be made a part of the official record of the proceedings, maintained in the office of the Clerk to the Board of County Commissioners.

**RULE 3-102 CONTENT OF DECISION**

- A. Findings of Fact and Conclusions: Each decision in a contested case shall contain findings of fact and conclusions of law determined by the Board of County Commissioners when deciding the case. The Board of County Commissioners's findings of fact shall rest entirely upon the testimony and evidence presented at the open hearing.
  
- B. Review by Counsel and Staff: Any decision rendered by the Board of County Commissioners shall be approved as to form by Counsel to the Board of County Commissioners, prior to the President signing the decision, at which time the decision shall become official.

**SECTION 4 - REVISORY POWER OF THE BOARD OF COUNTY COMMISSIONERS**

**RULE 4-101 REVISORY ACTIONS PERMITTED**



A. Revisory Actions: The following revisory actions are permitted, at the discretion of the Board of County Commissioners.

1. At the written request of any party made within 15 days of the issuance of the decision and for good cause shown, the Board of County Commissioners may, at its discretion, suspend its order and re-open the case to reconsider, modify, or rehear the issue. The party submitting the written request shall certify in writing that the request has been served upon all other parties to the case. Providing that written notice has been given to all parties, the requesting party may present a brief oral argument at a scheduled regular meeting of the Board of County Commissioners. All other parties shall have the right to rebut any statements made by the requesting party.
2. Without prior notice or hearing, the Board of County Commissioners by resolution, may modify any decisions to correct a clerical error. The Board of County Commissioners shall send a copy of the corrected decision to each recipient of the original decision. The date of the modified order shall be the official issuance date for appeal purposes.
3. At any time the Board of County Commissioners may revise, revoke, or rescind any decision or approval in case of fraud, mistake, or irregularity, and may do so at the instance of any member of the public or upon its own motion, upon notice to all interested parties and following an evidentiary hearing pursuant to these rules if there are issues in dispute.
4. The time for appeal to the Circuit Court, under Rule 7-101, shall temporarily cease upon receipt of a request for reconsideration, modification, or rehearing. The running of the balance of the appeal period shall resume once the Board of County Commissioners acts on the request for reconsideration unless the Board of County Commissioners modifies, suspends or withdraws its decision, in which case a new appeal period shall commence as of the date of issuance of the Board of County Commissioners' a new or revised final decision.

B. Grounds for Reconsideration, Modification or Rehearing: The following guidelines shall apply to reconsideration, modification or rehearing of a case pursuant to Rules 4-101.A.1.

1. The Board of County Commissioners may reconsider or rehear a matter pursuant to Rule 4-101.A.1, above, upon a showing of

mistake of fact or law, or to correct a clerical error, or for other good cause shown.

2. The Board of County Commissioners shall not rehear a matter under Rule 4-101.A.1, unless evidence is submitted which could not reasonably have been presented at the original hearing, or unless some mistake or misrepresentation was made at the original hearing which requires re-hearing and re-argument in order to be corrected.
3. The party requesting reconsideration, modification, or re-hearing shall serve a copy of the request on all parties entitled to receive notice in the case, and certify such service to the Board of County Commissioners.
4. Within 15 days of filing of a request for reconsideration, modification, or rehearing, any party may file a written response to the request to be considered by the Board of County Commissioners prior to making its decision.

#### **SECTION 5 – SEVERABILITY**

##### **RULE 5 -101 SEVERABILITY**

If any Section, Rule, clause, sentence, part or parts of these Rules of Procedure shall be declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or the Rules in their entirety or of the remaining Rules or of any sections or parts thereof.

#### **SECTION 6 – AMENDMENT PROCEDURES**

##### **RULE 6 -101 AMENDMENT**

These Rules of Procedure for Contested Cases may be amended by an affirmative vote of Board of County Commissioners.