

# **Guidance for Conducting Electoral Board Meetings**

**(Annual VEBA Conference – March 19, 2022)**

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**Edward R. Long**

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The following course of participation is to be observed

1 – **Turn off ALL phones**, or place on Vibrate

2 – Please **do not Text, Browse, or Otherwise**

3 – Please put the phone **AWAY**

4 – **Do not converse with the person next to you**

5 – **Consider the importance of this for your EB Meetings**

6 – **ALL** questions and comments are to be held until the Q&A at the end

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- My purpose here is to provide general guidance for conducting Electoral Board (EB) Meetings
- Guidance is based on Roberts Rules of Order & FOIA Influence
- Specific FOIA Requirements for EB Meetings are included as an Appendix
- This Power Point Presentation will be available upon request made to  

Ed.Long@PolyRAD.net
- In the Subject of your email enter “Request for VEBA Talk”

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The rules of Parliamentary Law are a balance of the rights of Persons or Subgroups within an organization's membership

The breath and rigor of Rules tend to be less for Small Assemblies  
Than for Large Assemblies

An Electoral Board (EB) Meeting,  
may be treated as a Small Assembly

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There are 3 Classes of Motions other than a Main Motion:

**5 Privileged** (Fix time to Adjourn, Adjourn, Recess, Question of Privilege, Call for Orders of the Day),

**7 Subsidiary** (Lay on the Table, Previous Question, Limit or Extend Limit of Debate, Postpone to a Certain Time, Commit, Amend, Postpone Indefinitely)

**11 Incidental** (Point of Order, Appeal, Suspend the Rules, Object to Consideration of a Question, Consideration of the Paragraph, Division of the Assembly, Method of Voting, Relating to Nominations, Excuse from Duty, Reconsider, Rescind)

I recommend that except for 3 of them you ignore them because they are complex and often are weaponized.

The 3, which I will discuss later are

Adjourn

Postpone

Table

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## (Annual VEBA Conference – March 19, 2022)

### Procedure For Conducting A Business Item, i.e. a “Question”

#### Conducting the introduction/discussion of a business item:

- Though a business item can arise from an informal means you should express it in the form of a Motion before debating it because of the potential of a subsequent FOIA process.
- The Chairman can ask for a formal motion either to introduce business or to formalize an informal introduction.
- Either of the other 2 members of the EB can make a motion. No Second needed.
- Motion Maker should have 1<sup>st</sup> opportunity to speak if the motion is at his/her initiative.
- Chairman can participate in the debate.
- Upon closure of the Debate the Chairman repeats the Motion and calls for a Vote.
- Preferably the Chairman only votes to break a tie, or last if always allowed to vote.
- The Chairman states whether the Motion passed or failed
- The Secretary records the Motion, who made the Motion, & individual's Yay or Nay.

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## Order of Meeting Business

Recommend an EB adhere to the following in order to clearly document attended business

- 1 – Call to Order
- 2 – Reading and Approval of Minutes of Previous Meeting (s)
- 3 – Recognition of Visitors present for specific business
- 4 – Reports of EB Officers [Chairman, Vice Chairman, Secretary]
- 5 – Reports of Registrar and Staff, if the latter exists
- 6 – *Special Orders*
- 7 – Unfinished Business & General Orders
- 8 – New Business
- 9 – Comments by the Public
- 10 - Adjourn

NOTE:

For an Order of  
Business  
Announcement  
Sections 4 – 8 should  
include scheduled  
items

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## Order of Meeting Business

### 1 – Call to Order

- Chairman calls the meeting to order
- Chairman notes the time and members present, which Secretary records
- The Chairman and the Secretary must be present  
(See the Virginia Election Laws Manual, 24.2-106  
for details)
- For specific Meeting Rules for an EB see ‘the Handbook.’
- Regarding member participation by other than face-to-face see ‘the Handbook’, Section 2.3.1.4



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## Order of Meeting Business

### 2 – Reading and Approval of Minutes of Previous Meeting (s)

[NOTE: If the minutes of prior Meeting(s) have been issued and corrected ahead of a Meeting then can dispense with the following EXCEPT for the last bullet]

- The Chairman asks the Secretary to read the Minutes.
- A motion may be made at this point to dispense with the reading
- The Chairman asks if there are any corrections to the Minutes  
[If there are correction(s) they are so stated by the member submitting the correction(s) and the Chairman asks for unanimous consent if no objection(s). If there are objection(s) debate ensues and the correction(s) are voted upon.]
- The Secretary enters all corrections that are approved
- The Chairman then states, "There being no further corrections to the Minutes they stand as approved.'

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## Order of Meeting Business

### 3 – Recognition of Visitors present for specific business

#### Examples:

- Registrar
- Staff Members with assigned reports
- Municipality lawyer
- Elected officials
- Department of Election Officials
- EB members of other localities

Best Practice: List them by name and position

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## Order of Meeting Business

### 4 – Reports of EB Officers (Chairman, Vice Chairman, Secretary)

- The Chairman asks if any of the EB Officers has any report.
- Reports are not necessarily routinely made.
- An Officer making a report can make a Recommendation, from which a Motion is made, debated, and a vote taken. The Motion, the Maker of the Motion, and vote are recorded.

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## Order of Meeting Business

### 5 – Reports of Registrar and Staff, if the latter exists

- Only those members of the Staff called upon by the Chairman make a report.
- A Staff member's or Registrar's Report can make certain Recommendations from which an EB Member can, if desired, make a motion.
- Only the 3 EB Members can debate the Motion and reach a decision (i.e. vote.)  
[Reason: Only the 3 EB Members have Voting rights.]

[NOTE: The Recommender can be asked for information that assists the EB members' debate.]

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## Order of Meeting Business

### 6 – Special Orders

- A Question is an item of business for which a Motion has been and is on the Floor for debate)
- A Special Order is a Question that has been Postponed by a 2/3 vote during an earlier Meeting to a specific following Meeting and declared a Special Order.

[In a nutshell – a Special Order is a means of insuring a Postponed piece of business is guaranteed closure.]

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## Order of Meeting Business

### 7 – Unfinished Business and General Orders

- Unfinished Business is a Question that was pending in a prior meeting that was adjourned before the Question could be addressed.
- The Unfinished Business can include Unfinished Business of a prior Meeting.
- A General Order is a Question that was Postponed by a simple majority during an earlier Meeting to a specific following Meeting.

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## Order of Meeting Business

### 8 – New Business

- A Listing of scheduled new Items of business

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## Order of Meeting Business

### 9 – Comments by the Public

- The individual member of the public must provide their name and address at their beginning.
- You can limit the time for each person to speak
- The EB is under no obligation to respond other than to say the advice/question will be considered for future business.
- There is to be NO debate between the EB and the individual member of the public.
- A Comment that is a Question should be answered IF there is a clear and formal answer.



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## Order of Meeting Business

### 10 – Adjourn

- A Motion for Adjournment can come at any time during a meeting.
- Recommend that it require a Second.
- It requires a Majority vote of the EB.
- A Motion to Adjourn during the course of a Meeting should be recognized as a decision that all pending business of the Meeting is to be taken up as Unfinished Business at the next Meeting.

(NOTE: I have by-passed and to some extent overlooked much of the complexity of Adjournment as ruled by Roberts Rules of Order)

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## SUMMARY

An EB is a 3-person Assembly, i.e. EXTREMELY SMALL; thus its Meetings are less formal.

For that reason I have ignored the three classes of motions and the priorities of those within each class.

The critical requirements for an EB Meeting are primarily due to those of FOIA

This presentation is for Guidance – it is not the Gospel

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## **APPENDIX**

**SOME FOIA REQUIREMENTS FOR**

**OPEN  
&  
CLOSED**

**MEETINGS**

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## FOIA REQUIREMENTS FOR OPEN MEETINGS

- FOIA presumes that every Public Body meeting is open to the public
- A "Public body" includes an EB
- Not a Meeting:  
*[A gathering or attendance where no part of the purpose of such gathering is the discussion or transaction of any public business]*
- Minutes must be taken during an Open Meeting  
*[More on Minutes under the Guidance portion of this presentation]*
- Any person can photograph, film, record, or otherwise reproduce any portion of a meeting  
*[An EB may adopt rules for the placement and use of recording equipment]*

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## FOIA REQUIREMENTS FOR OPEN MEETINGS

- You aren't required to include public comment on the agenda.  
*[Best Practice: Include public comment when you can, as much as you can]*
- *An EB is 'encouraged' to post in a public manner approved minutes w/i 3 days of approval*
- *Final, approved Minutes must be typed, not handwritten*

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## FOIA REQUIREMENTS FOR OPEN MEETINGS

- AN EB can not conduct business by a audio or video electronic means, but upon the following exceptions
- Gubernatorial declared emergency
- Temporary personal emergency, matter, or disability of one EB Member
- Other 2 EB Members must be physically assembled for the purpose of a quorum
- Remote Member's voice must be audible to all at the Meeting and must be "simultaneous."
- Disapproval of remote participation must be recorded in the minutes
- Electronic participation can not exceed the lesser of 2 Meetings OR 25 % of the meetings
- An EB must adopt a written policy governing electronic participation

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## FOIA REQUIREMENTS FOR CLOSED MEETINGS

- Can only have a closed meeting during an open meeting
- Motions to go into a closed meeting must be recorded verbatim in the Open Meeting Minutes
- The motion must include

*Subject matter*

*Purpose*

*Reference to justification given in Virginia Code*

[Though not a FOIA requirement best practice: State the motion with language such as:  
“I move the EB Table the remainder of the Open Meeting and go into a Closed Meeting to discuss ... For the Purpose of ... That is justified in Virginia Code ...”]



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## FOIA REQUIREMENTS FOR CLOSED MEETINGS

- There are 5 justifications in the code: (#1, 4, 7, 8, & 34)  
<https://law.lis.virginia.gov/vacode/title2.2/chapter37/section2.2-3711/>
- There is an additional justification for the review process for Provisional Ballots
- Discussion during a closed meeting restricted to that made in the Motion to go into a Closed Meeting
- Motions to come out of a closed meeting must be made in the Closed Meeting.

Though not FOIA Required for Best Practice, the resumption of the Open Meeting should be begin with a Motion such as “I move we take from the Table the remainder of the Open Meeting.”

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## FOIA REQUIREMENTS FOR CLOSED MEETINGS

In reconvening the open meeting after a Closed Meeting a roll call vote must be taken that certifies that to each member's knowledge:

Only public business matters 1) lawfully exempted from open meeting requirements and 2) identified in the motion convening the closed meeting were heard, discussed or considered.

Each member's vote must be included in the minutes of the open meeting.

Any member who does not believe requirements 1 and 2 were met must state so prior to the vote and indicate the substance of the departure. This statement must be recorded in the minutes of the open meeting.

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