

APPENDIX G: HOW TO BE A GOOD BOARD MEMBER

You can start with *The Riggins Rules* appearing in the Winter 1994/Number 13 [Planning Commissioners Journal](#). They were written by Fred Riggins, former Chairman of the Phoenix Planning Commission, in 1967 as “*Suggested Do’s and Don’ts for the Conduct of Public Hearings and the Department of Members of Boards, Commissions, & Other Bodies.*”

Rules Every Board Member Should Live By

1. **Attend every meeting possible.** You volunteered to be on the board or put your hat into the ring to run for election so make the effort to attend and participate in as many meetings as possible. You are only human, and humans do get sick and have other things to do, so it is unrealistic to think that you will be at 100% attendance; but if you can’t attend at least 80-85% of the meetings, you should think about stepping down.
2. **Create a good impression.** You may have attended hundreds of meetings, but chances are there will be people attending each meeting who have never been to a board meeting before and probably never will again, so this is the first and only time they will see you in action. What you say and do and how the board acts will have a lasting and final impression on them about how their government functions. Keep them in mind.
3. **Be prompt.** If the meeting is scheduled to begin at 7:00, arrive well in advance to take your seat, remove your coat, organize your papers, say hello to fellow board members and be thoroughly ready to go at the exact hour. The meeting should begin just as advertised and if the board has to wait for you to arrive, you’ve just wasted a lot of people’s time.
4. **Look good.** Pay attention to how you look. You may not necessarily need a “power suit” but at least be presentable. Probably a tee-shirt, shorts and flip-flops are not appropriate. The business of the board is important and your attire should reflect that.
5. **Limit pre-meeting mingling.** It is certainly fine to say hello to people as you enter the meeting room or in the lobby outside, but don’t spend too long in casual conversation. Though perfectly innocent, it may give the impression that you are somehow connected with an applicant or abutter and that something “fishy” is going on.
6. **Limit ex-parte contacts.** Ex-parte contacts are discussions that take place outside of the public meeting. You should avoid discussing any case with other members, applicants, abutters, neighbors, friends, or relatives (but it’s OK to talk with your dog about it) and if someone buttonholes you and gives you information regarding an application, you are obliged to reveal that information to the entire board. Never say the board is leaning one way or another and strongly encourage the person to attend the hearings to voice concerns and ask their questions there.
7. **Be prepared. Do your homework** and read all the materials sent to you prior to each meeting. It is grossly unfair to the applicant and the board for you to act on a matter with which you have no previous knowledge or with which you are only vaguely familiar. Never try to read your materials during the meeting – you won’t do a good job at either.

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8. **Remain impartial.** Never say how you intend to vote during the applicant's presentation, a butters testimony or at any time during the hearing or before. Once the board closes the hearing and begins to deliberate, you can start to express your positions and begin to form an opinion about whether to approve the application or not. It is quite proper to raise questions and raise issues during the hearing but don't make pronouncements like "well then, I guess I'll just have to vote to deny this application" based on someone's testimony or the applicant's presentation. Remember, you are there to help all applicants, whether you agree with them or not. Be polite to everyone and "play fair" like you learned in kindergarten.
9. **Consider recusal.** You must step down (recuse yourself) if you have a direct personal or pecuniary interest in the outcome of a case that differs from the interest of other citizens or where you would otherwise be disqualified as a juror. [RSA 673:14, I] The board can even take a non-binding vote as to whether or not you should step down, but the ultimate decision is yours and yours alone. [673:14, II]

The "Juror Standard" (RSA 500-A: 12) calls for disqualification where a board member:

- a. Expects to gain or lose upon the disposition of the case, financially or otherwise;
- b. Is related to either party;
- c. Has advised or assisted either party;
- d. Has directly or indirectly given an opinion or has formed an opinion;
- e. Is employed by or employs any party in the case;
- f. Is prejudiced to any degree regarding the case; or
- g. Employs any of the counsel appearing in the case in any action then pending in the court.

If you do recuse yourself, go for a walk, grab a coffee, read the notices on the bulletin board, etc., and just step away from the proceedings – but make sure someone calls you back in when that case is finished so you can resume your duties on the board. Of course you can always participate in the case as a private citizen – membership on the board does not strip you of that right – just be clear that you are speaking as a citizen and not as a member of the board.

But, if you firmly believe that you do not have a conflict and can impartially judge the application, don't be bullied into stepping down just because the applicant might think you'll vote against them. It's your decision. Always consider what is best for the board as a whole. Keep in mind this decision to not step down can be used as an appeal issue. Causing the town and the board time and money. Some say, "when in doubt-don't" when it is a question of recusal.

If you should be disqualified yet participate in the board's decision, you may have tainted the entire decision of the board, and it can be invalidated. [[Winslow v. Holderness](#), 125 NH 262 (1984)]

10. **Pay attention.** Listen to what the applicant or a butters have to say, whether you agree with them or not. This is likely their one time in front of the board even though it may be your 100th board meeting. Don't read or shuffle papers, whisper to other board members, or act disinterested in the proceedings. Again, "play fair" like kindergarten.

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11. **Don't interrupt.** Allow presenters to speak and go through their presentations and only ask questions at the end, except for very short and necessary clarifying remarks or queries. Things will probably progress faster if you allow the full presentation with questions at the end rather than peppering the presenter with questions while speaking and getting them off track.
12. **Be humble.** You don't know everything, even if you think you do. Be wary of trying to answer questions that might be better left for someone else to answer who really knows what they are talking about. This is another place where staff or circuit rider planner can help – rely on them. It is all too easy to answer something as your understanding, only to be corrected later, which can erode the public's overall confidence in the competency of the board.
13. **Vote!** There should be a roll call vote on every motion where each member's vote is clearly documented as part of the record. The board should never vote by a show of hands and only use the mass "all those in favor say aye, those opposed say nay" for things that are generally expected to be unanimous, like approving minutes or closing the meeting. Each board member should vote yes or no on every motion and rarely if ever abstain (i.e., "acquiesce to the will of the majority") from voting. Never abstain just to avoid the difficult task of voting, fearing the anger of friends and neighbors. This is the position you volunteered (or ran for) and it can come with some difficult moments. Lastly, under RSA 91-A:3, I, the board is required to have a roll call vote to enter into a nonpublic session. [For more information on nonpublic sessions, see Legal Q and A: The Inside Scoop on Nonpublic Sessions, New Hampshire Town and City, June 2012]
14. **Keep your cool.** Keep your emotions in check and don't be a cheerleader for one side or the other. There really are no "winners or losers" so don't pump your fist at a denial or shout for joy at an approval. This can lead to the appearance that you have more at stake in the outcome of an application and raise doubts about your impartiality. You can certainly be glad or disappointed in a particular outcome but just don't show it.
15. **Self-assess.** Periodically take a step back and look at your participation on the board. How well do you know and understand local ordinances and regulations and state laws relating to your board? Have you been to any training lately (NH OPD conferences, NHMA law lectures, RPC workshops, etc.)? Do you make motions? Are they seconded? Do you feel like you're out in left field most of the time? Being on a local land use board just may not be your cup of tea. It's OK to recognize that and step down or complete your term and not run again, or ask not to be reappointed.
16. **Use a Microphone.** Require the applicant, engineers, presenters and abutters to come up to a podium with a microphone to speak one at a time, or at least to stand and address the board and audience so that everyone can hear the speaker and see the plans and other documents being referenced. Not only will this allow everyone in the room to hear what is said, it will be easier for the chair to control the meeting and keep track of who is addressing the board. And the board members should use microphones, or at least speak so they can be clearly heard by all in attendance.

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17. **Address the Chair.** ALL questions should be addressed to the chair, e.g., "Madame (or Mister) Chair, I have a question." Once the person asks their question, the chair can then ask the applicant or appropriate person to respond. Do not allow direct back and forth discussions that can escalate out of hand. All questions must be germane to the subject and if not, the chair can so state and move to the next question.
18. **Be formal.** Don't use first names in addressing anyone during the course of the hearing. This includes audience, applicants, or members of your particular body, even if the person concerned is your brother or your best friend. Always use "Mr." or "Ms.," never their first name. Calling on someone by their first name conveys an air of informality or friendship which could be viewed as something other than an impartial relationship. If you just can't bring yourself to call someone Mr. or Ms., use the third person form and call them "the applicant," or "the person who is objecting," or "the gentleman (or lady) who is appearing here in connection with this case."
19. **Be Respectful-**
 - Of the Chair.** Always address the Chair as "Madame (or Mister) Chair," "The Chair," or "Chair Jones," and wait to be recognized before continuing. This will set an example for applicants and others wishing to be heard and will contribute a great deal toward orderly proceedings.
 - Of attorneys.** Attorneys will sometimes give lengthy presentations on behalf of their clients; they are not there just to make your life miserable. Avoid the temptation to make matters as difficult as possible for them and remember they are there to advocate for their client's position.
 - Of everyone.** Don't indulge in personalities and don't permit anyone else to do so. Be respectful of everyone no matter how you feel about their positions.
20. **Be courteous.** There may be a temptation, especially when it is apparent that someone is being slightly devious and less than forthright in his testimony, to make someone look foolish, but don't do it. If you must "expose" someone, do it as gently and kindly as possible. Don't be a bully – that is not part of your role as a board member.
21. **Stick to the issues.** The board is not there to solve all the problems of the world – you are not an equity board. If there is a neighborhood argument, don't try to referee the situation. Keep all comments and testimony focused on the application the board is reviewing and the relevant laws, ordinances and regulations.
22. **Don't seek revenge or leverage.** Each application to the board is unique and individual. Even if the applicant has appeared before the board on other occasions, it was for something else. Resist the temptation to "stick it" to the applicant on this application if you feel he or she "got away with something" on a previous occasion. Everyone has a right to a fair and impartial hearing on the merits of the present case, i.e., constitutional due process. Also, don't try to use their application as leverage to accomplish something else. Just because a land owner owes some parking tickets or taxes does not mean you can withhold their subdivision approval until they "pay up" – the two issues are unrelated.

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23. **Adhere to the ordinance and regulations.** People may appear before the board in distressed situations. You should remain objective, yet still be sympathetic to their situation. Don't try to be the hero and grant their relief by throwing the regulations or ordinance out the window. If the case comes back on appeal you may well have actually caused a disservice to the person, deepening their distress. If someone has become involved in bad business deals or other self-imposed difficulties, you are not necessarily there to bail them out.
24. **Provide written decisions.** RSA 673 is very clear that every local land use board decision to approve or disapprove an application must be in writing and made available to the applicant. If the application is denied, the board must provide the applicant with written reasons for the denial and similarly, if the application is approved with conditions, the board must include in the written decision a detailed description of all conditions necessary to obtain final approval (i.e., "conditions precedent") or all the on-going, binding conditions that the applicant must adhere to after obtaining a final approval (i.e., "conditions subsequent"). [For more on conditional approvals, see Attaching "Conditions" to Approvals in Land Use Boards, New Hampshire Town and City, November/December 2013.]
25. **Carefully consider recommendations.** If the board has utilized a consultant or is lucky enough to have municipal staff assistance, their recommendations should be seriously considered. These recommendations can come before, during, or after a hearing on the application and this advice from professionals with years of experience should be given careful consideration by the board. On a similar note, you should strongly heed unrefuted expert opinions, even if they disagree with your point of view. [For more on expert opinions, see Land Use Decisions: Expert Opinions and the Board's Personal Knowledge, New Hampshire Town and City, November/December 2009.]
26. **Use your staff (if you have any!)** Staff can be a valuable asset and resource and you should not be hesitant to utilize their services. They can help with research, statute review, procedural compliance, and drafting decisions just by way of example. The board should develop a good working relationship with the staff and that also should extend to the regional planning commission. Some RPCs contract with municipalities to provide circuit riders as part-time staff to assist boards.
27. **Be decisive.** Either grant what the applicant has applied for or deny it citing the specific reasons for denial. Don't try to appease an applicant by approving less than what they asked for as a way to make them happy, unless of course, that is all that could possibly be approved. The board could find that a parcel of land could only support 20 house lots where the applicant applied for 25 and that can be justified if the board based its decision on the ordinance and regulations.
28. **When it's over, it's over.** Once the board acts on an application, move on to other business. Don't allow minority opinions or other post-decision observations or testimony. If someone really wishes to object, outline the formal appeal process and assist them with dates, deadlines and how to proceed. A board may reconsider its own decision as long as it is within the appeal time period as outlined in 74 Cox Street LLC v. Nashua. [See more under Decisions on the Land Use Boards and Municipal Officials page.]
29. **Each Case on its Own.** While the regulations are universal for each application, remember each application is different and the regulations will apply differently to each application. Each case needs to be decided on its own merits as compared to the regulations, not on previous approvals.

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30. **But Think Ahead.** Always be mindful of precedents you are setting with conditions of approval and treatment of previous applicants. It is important to document and justify your reasons and answers in the minutes and in your decisions as to why you reached the decision you did, whether it is an approval or denial.
31. **Consult with Town Attorney When You Need to.** Make sure your administrative and procedural processes are legally correct. The majority of approvals are appealed due to procedural errors. If you are in doubt over the legality of a procedure or decision, stop the hearing and continue the application to get legal advice. Better safe than sorry! **Don't allow applicants, their representatives, the public, or any public or municipal official try to rush your decision or have you make a decision in their favor.** You took this position in part to help guide development and growth in your town for the benefit of the entire town. Not everyone will agree with you but don't let that influence your decisions. You can listen to their concerns and maybe work some of their concerns into the conditions of approval. Be mindful that the planning board should be working with the applicants and the residents when trying to reach a decision.

Rules for Running a Meeting

32. **Avoid fights.** Public meetings can be contentious and heated tempers may rise. Do your best to listen to what people have to say, thank them for their comments and move on to the next question or issue. Resist the temptation to engage with the speaker and argue why you're right and the speaker is wrong – that will only prolong and deepen the confrontation.
33. **Make sure everyone can see what the board is looking at.** If the applicant lays out plans on the table and begins to point things out and discuss the details, put the plan up on the wall so everyone can see what the applicant is pointing to. If that is not possible, allow interested parties to come up and look at the plans.
34. **Have speakers introduce themselves.** Ask everyone to state their name and address, the organization they represent, a brief summary of their concerns and any details or specifics that the board should know. As suggested previously, use a podium and microphone, if possible, and require everyone to speak and ask questions from that point. By having everyone speak from a common location (not from the audience seating), it puts all speakers on an equal footing and may lessen the chance of on-going back and forth arguments between abutters and a developer.
35. **Maintain separation.** Except in unusual situations, do not permit people to leave the podium and approach closer to the board table or dais unless they need to show a small exhibit or to explain some detail. This can break down into a small mumbling session at one end of the table that usually does not get recorded and cannot be heard by other board members or the audience.
36. **Don't rush.** There is no statutory requirement to make a decision on an application the same night you hold a public hearing. Especially at the end of a long night, it could be wise to continue the proceedings to a future meeting where the board can begin or continue deliberations and possibly reach a decision. The chair could assign a board member or staff to draft a potential decision and bring it back to the next meeting for the full board to consider. Just be mindful that the planning

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board must act within 65 days of accepting an application unless the applicant has mutually agreed to an extension. (RSA 676:4, I (c)(1))

37. **Rotate officers.** RSA 673:9 limits the role of chairman and other officers to one year but they can run for reelection year after year. When considering a chair (or other officers as outlined in the board's rules) think of how well that person might be in such a role. Don't just automatically vote for a chair just because he or she has been on the board a long time or is a friend of yours - neither of which are necessarily qualifications for a good chairman. The vice-chair (if your rules provide) might be a good training ground for someone who may become chair, especially if they occasionally run the meetings in the chair's absence. Or, heading up a sub-committee might be a good way to assess a member's potential as a future chairman.