

**RULES REVIEW COMMISSION MEETING  
MINUTES  
December 17, 2020**

The Rules Review Commission met on Thursday, December 17, 2020 in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The Commissioners held a WebEx meeting to ensure compliance with Executive Orders limiting mass gatherings, and to encourage social distancing. The meeting was conducted in accordance with the provisions of G.S. 166A-19.24.

Commissioners present via teleconference were Bobby Bryan, Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell.

Staff member Alex Burgos was present in the Commission room. Commission Counsel Amber May, Amanda Reeder, and Ashley Snyder were present via WebEx.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

The Chair read into the record the Retirement Resolution in Appreciation of the Codifier of Rules, Molly Masich. Upon the call of the Chair, the resolution was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None. A copy of the resolution is attached.

Molly Masich, the Codifier of Rules, addressed the Commission.

**APPROVAL OF MINUTES**

The Chair asked for any discussion, comments, or corrections concerning the minutes of the November 15, 2020 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow-up matters for the State Board of Education Tabs A and B, and Department of Transportation Tab C.

**FOLLOW UP MATTERS**

**State Board of Education**

16 NCAC 06B .0114 – Upon the call of the Chair, the Commission voted to approve the rule by roll-call vote, ayes 4, noes 4 as follows: Voting in the affirmative: Anna Baird Choi, Margaret Currin, Randy Overton, and Paul Powell – 4. Voting in the negative: Andrew Atkins, Bobby Bryan, Jeanette Doran, and Jeff Hyde – 4. The motion failed.

Upon the call of the Chair, the Commission voted to object to the rewritten rule in accordance with G.S. 150B-21.9 for lack of statutory authority and clarity by roll-call vote, ayes 4, noes 4 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Jeanette Doran, and Jeff Hyde – 4. Voting in the negative: Anna Baird Choi, Margaret Currin, Randy Overton, and Paul Powell - 4. The motion failed.

Pursuant to G.S. 150B-21.12(d), the rule remains under review by the Commission.

Tom Ziko, General Counsel with the agency, addressed the Commission.

### **State Board of Education**

16 NCAC 06D .0212 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell – 8. Voting in the negative: None.

Prior to the review of the rules from the State Board of Education 16 NCAC 06G, Commissioner Hyde recused himself and did not participate in any discussion or vote concerning these Rules because he is a member of two North Carolina Charter School Boards and the rules pertain to charters.

16 NCAC 06G .0314 and .0519 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6 - noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Randy Overton, and Paul Powell – 6. Voting in the negative: None.

The Commission received over 10 letters of objection to 16 NCAC 06G .0314 and .0519. Pursuant to G.S. 150B-21.3, these Rules are subject to legislative review and a delayed effective date.

The Commission took no action on 16 NCAC 06D .0307, .0308, .0309, .0311; 06E .0204, .0206; and 06G .0508. Staff addressed the Commission on 16 NCAC 06D .0309. The rule received over 10 letters of and will be subject to legislative review and a delayed effective date upon approval in accordance with G.S. 150B-21.3.

### **Department of Transportation**

Prior to the review of the rules from the Department of Transportation, Commissioner Bryan recused himself and did not participate in any discussion or vote concerning the rules because his family is currently involved in litigation with the Department.

Prior to the review of the rules from the Department of Transportation, Commissioner Bryan left the meeting and did not return.

19A NCAC 02E .0201, .0202, .0203, .0207, .0208, .0209, .0210, .0212, .0213, .0214, .0215, .0224, and .0226 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The Commission objected to 19A NCAC 02E .0204, .0206, and .0225 for lack of statutory authority, finding that as written the rules conflict with G.S. 136-131.1 and 136-131.2. Specifically, the Commission found that requiring local approval or transferring regulatory oversight to local governments as provided in the rules is beyond the authority of the agency. Upon the call of the Chair, the rules were objected to by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

TJ Bugbee, Executive Director with the North Carolina Outdoor Advertising Association, addressed the Commission.

Jeanine Dodson, President of the North Carolina Outdoor Advertising Association, addressed the Commission.

Craig Justus with Van Winkle, Buck, Wall, Starnes, and Davis, P.A., addressed the Commission.

Robert Sykes of Capital Outdoor, Inc. addressed the Commission

Jack Cozort, representing the Town of Cary and City of Wilson, addressed the Commission.

Ebony Pittman with the Department of Justice and representing the agency, addressed the Commission.

#### **LOG OF FILINGS (PERMANENT RULES)**

##### **Board of Agriculture 02 NCAC 48A**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows:

Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

##### **Soil and Water Conservation Commission**

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

##### **Board of Agriculture 02 NCAC 61**

02 NCAC 61 .0112 –Upon the call of the Chair, the Commission voted to object to the rule in accordance with G.S. 150B-21.9 for lack of statutory authority and necessity by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Upon the call of the Chair, the remaining rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

##### **Department of Information Technology**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

##### **Medical Care Commission 10A NCAC 13C**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows:

Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

##### **Medical Care Commission 10A NCAC 13D, 13K**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

##### **DHHS - Division of Health Service Regulation**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

##### **Commission for Public Health**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

### **Criminal Justice Education and Training Standards Commission**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

### **Environmental Management Commission 15A NCAC 02I, 02J**

15A NCAC 02I - Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

15A NCAC 02J - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

### **Environmental Management Commission 15 NCAC 02N, 02O**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

### **Environmental Management Commission 15 NCAC 13B**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

### **Department of Revenue**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

### **Board of Funeral Service**

Prior to the review of the rules from the Board of Funeral Service, Commissioner Choi recused herself and did not participate in any discussion or vote concerning these Rules because her law firm provides legal representation to the Board.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 6. Voting in the negative: None

### **Board of Examiners for Nursing Home Administrators**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

### **Real Estate Commission**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

### **LOG OF FILINGS (TEMPORARY RULES)**

#### **Medical Care Commission**

10A NCAC 13F .1801, .1802; 13G .1701, and .1702 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby

Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

**Wildlife Resources Commission**

15A NCAC 10F .0323 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

**COMMISSION BUSINESS**

The meeting adjourned at 11:17 a.m.

The next regularly scheduled meeting of the Commission is Thursday, January 21, 2021 at 9:00 a.m.

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Alexander Burgos, Paralegal

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Minutes approved by the Rules Review Commission:  
Jeanette Doran, Chair

**Rules Review Commission Meeting December 17, 2020  
Held Via WebEx**

<b>First Name</b>	<b>Last Name</b>	<b>Agency</b>
Chrissy	Waggett	Agriculture
Phil	Wilson	Agriculture
Jackson	Leigh	DIT
Jeremy	Poplawski	DENR
Thomas	Ziko	DPI
Tammy	Howard	DPI
Anna	Szamosi	DIT
Beverly	Speroff	DHHS
Ebony	Pittman	DOT
Melissa	Vuotto	REC
Kevin	Harrison	DPI
Martha	Frisone	DHHS
Greta	Hill	DHHS
Jeannine	Dodson	Adams Outdoor Advertising
Charminique	Williams	DOI
Susan	Coward	DIT
Ashley	Pekrul	Wildlife
Kirsten	Leloudis	DHHS
Craig	Justus	Van Winkle Law Firm
Martha	Bell	Nursing
Lou	Martin	DPI
Bill	Lane	DENR
Jackson	Cozort	North State Strategies
Jonathan	Puryear	DOR
Megan	Lamphere	DHHS
Rob	Patchett	REC
TJ	Bugbee	NCOAA
Virginia	Niehaus	DHHS
Jessica	Montie	DENR
Nadine	Pfeiffer	DSHR
Dale	McKeel	Scenic NC, Inc.
Cassie	Gavin	Sierra Club
Chris	Colvin	Lamar Charlotte
Kim	Case	Caldwell Schools
jackie	keener	DIT
Pudge	Roberts	Coastal Outdoor Advertising
Nasser	Rahimzadeh	Village of Cemmons
Joelle	Burleson	DENR

John	Barkley	DOJ
Jason	Watkins	DENR
Bethany	Burgon	DOJ
Tichina	Hamer	DHHS
Larry	Michael	DHHS
Michael	Ruthsatz	
Ed	Norman	DHHS
John	Cashion	DHHS
Libby	Kinsey	DHHS
Tammy	Sylvester	DHHS
Ruth	Strauss	DENR
Vernon	Cox	Agriculture
John	Correllus	DIT
Heather	Meech	DENR
Kim	Randolph	DOJ
Conrad	Plyler	Lamar Charlotte

### **A Retirement Resolution in Appreciation of Molly Masich**

WHEREAS, Mary M. Masich (Molly) will retire on December 31, 2020 after completing over 41 years of dedicated service to the State of North Carolina;

WHEREAS, Molly Masich was hired in 1979 at the NC Department of Justice to codify rules, then moved to the Office of Administrative Hearings in 1986 to continue serving in that role, and was officially designated as the Codifier of Rules in 2015 (or, as she phrases her tenure, "I've been here forever.");

WHEREAS, in that position, Molly Masich defined the role of the Codifier and her guidance shaped the form of the North Carolina Administrative Code;

WHEREAS, Molly Masich has served as a historian for the evolution of rulemaking in North Carolina, sharing wisdom, insight, and anecdotes with members of the Rules Review Commission, legislators, agency personnel, the public, and all interested persons to ensure that the purpose and work associated with agency rulemaking are understood and appreciated by all;

WHEREAS, Molly Masich frequently presented to agency personnel, legislators, and the public on the process required by the Administrative Procedure Act to adopt rules, and on the Codifier's and the Office of Administrative Hearings' role in the rulemaking process;

WHEREAS, Molly Masich served as the head of the Rules Division for the Office of Administrative Hearings, wherein she managed Commission and publications staff;

WHEREAS, Molly Masich served as legislative liaison for the Office of Administrative Hearings and the Rules Review Commission in her tenure as Codifier and worked to ensure continual improvement to the Administrative Procedure Act;

WHEREAS, Molly Masich presented to the Joint Legislative Administrative Procedure Oversight Committee, wherein she advised the Committee on the rulemaking process and updated them on work of the Office of Administrative Hearings and the Rules Review Commission in that endeavor;

WHEREAS, Molly Masich often appeared before the Rules Review Commission to provide updates on legislation affecting rulemaking and to discuss how her position worked with the Commission to ensure the North Carolina Administrative Code remains accurate and up-to-date;

WHEREAS, during her tenure, Molly Masich has faithfully served to promote the best interests of the State;

WHEREAS, in her 41-year career with the State, Molly Masich distinguished herself with her deep knowledge and abilities related to rulemaking, and the expertise and



leadership she developed during that career has been invaluable to the Office of Administrative Hearings, the Rules Review Commission, and the State;

WHEREAS, Molly Masich earned the admiration, respect, and everlasting gratitude of agency staff, legislative staff, legislators, Commissioners, and all who encountered her for her dedication, friendship, professionalism, patience, and wisdom regarding the rulemaking process;

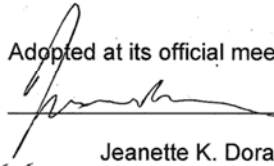
WHEREAS, the Rules Review Commission takes great pleasure in recognizing the professional achievements of Molly Masich, and herewith expresses our deepest appreciation for the invaluable contributions she has made to our Commission and rulemaking within North Carolina;

NOW BE IT THEREFORE RESOLVED that the Rules Review Commission recognize Molly Masich for her contributions to the State of North Carolina, including her work with the Commission, rulemaking agencies, and citizenry;

BE IT RESOLVED FURTHER that the Commission recognize Molly Masich for sharing her wisdom, knowledge, and resources unselfishly with all of us; and for her leadership and friendship throughout the years; and

BE IT RESOLVED FURTHER that this Resolution be presented to Molly Masich and a copy of this document be placed in the official files of the Rules Review Commission as part of the permanent record of the Commission as a lasting tribute to her accomplishments and contributions.

Adopted at its official meeting on this, the 17<sup>th</sup> day of December, 2020.



Jeanette K. Doran

Chair