



The Corporation of the Municipality of Clarington

By-law No. 2024-059

Being a By-law to establish a Municipal Service Board to control and manage activities at the Newcastle Village Community Hall and to repeal By-law 2014-094

Whereas pursuant to an Indenture dated July 30, 1923 (the "Massey Trust"), Chester Daniel Massey agreed to convey the land and the building now known municipally as the Newcastle Village Community Hall, 20 King Avenue West, which is legally described as Part of Lot 28, Concession 2, former Village of Newcastle, now in the Municipality of Clarington, designated as Lots 2, 3 and 4 on Block "A" on the plan of the Village of Newcastle (the "Property") to The Corporation of the Village of Newcastle upon certain trusts;

And whereas By-Law No. 723 passed by the Municipal Council of the Village of Newcastle on December 14, 1959 established the Newcastle Village Community Hall and appointed a board under the *Community Centres Act*, 1949 to manage the Property;

And whereas by virtue of paragraph 2(1)(c) of *The Regional Municipality of Durham Act*, 1973, S.O. 1973 c.78, The Corporation of the Village of Newcastle amalgamated with The Corporation of the Township of Clarke and The Corporation of the Township of Darlington and continued as a town municipality under the name The Corporation of the Town of Newcastle effective January 1, 1974;

And whereas by virtue of section 148 of *The Regional Municipality of Durham Act*, 1973, (a) the Newcastle Village Community Hall Board was dissolved as of December 31, 1973; (b) the Council of The Corporation of the Town of Newcastle was deemed to be the board of the Newcastle Village Community Hall under the *Community Recreation Centres Act*, 1974; and (c) the assets and liabilities of the Newcastle Village Community Hall Board became the assets and liabilities of The Corporation of the Town of Newcastle;

And whereas by virtue of subsection 1(2) of *The Regional Municipality of Durham Amendment Act (Newcastle-Clarington)*, 1993, S.O. 1993 c.3, on July 1, 1993 The Corporation of the Town of Newcastle was continued as a town municipality under the name of The Corporation of the Municipality of Clarington (the "Municipality");

And whereas the *Community Recreation Centres Act*, 1974 was repealed effective January 1, 2003;

And whereas section 196 of the *Municipal Act*, 2001 authorizes the Council of a Municipality to establish municipal service boards;

And whereas section 198 of the *Municipal Act*, 2001, S.O. 2001 c.25 provides that a municipality may give a municipal service board the control and management of such

services and activities of the municipality as the municipality considers appropriate and shall do so by delegating the powers and duties of the municipality to the board;

And whereas the Council of the Municipality ("Council") wishes to maintain a municipal service board to control and manage the Newcastle Village Community Hall.

And whereas Council approved the recommendations in Report LGS-040-24 to update the By-law and Terms of Reference for the Newcastle Village Community Hall Board;

Now therefore the Council of the Corporation of the Municipality of Clarington enacts as follows:

Definitions

1. "Newcastle Village Community Hall" or "Hall" means the property located at 20 King Avenue West, Newcastle, Ontario, and includes the Community Hall building interior and exterior grounds, parking lot and gazebo area.

Delegation

2. In accordance with section 196 of the Municipal Act, 2001, as amended, the municipal service board that was established pursuant to Clarington By-law 2014-094(?) under the name of "The Newcastle Village Community Hall Board" (the "Board") is hereby continued under the same name and is delegated with the responsibility for control and management of the Newcastle Village Community Hall.

Board Mandate and Responsibilities

3. The Board is responsible for the general maintenance, care, and use of the Newcastle Village Community Hall, including planting, care, and maintenance of flowers and shrubs, and the cost of all utilities for the Newcastle Village Community Hall.
4. If the Board desires to make any alterations or additions to the Newcastle Village Community Hall, including but not limited to erecting partitions, attaching equipment and installing furnishings, the Board may do so at its own expense, provided that before undertaking any alteration or addition, the Board submits to the Municipality a plan showing the proposed alterations or additions and the Board shall not proceed to make any alteration or addition unless the Director of Community Services or designate has approved the Plan. All alterations and additions made by or on behalf of the Board shall immediately become property of the Municipality without compensation to the Board.
5. The Board shall promptly notify the Municipality of any accident, defect, damage, or deficiency in or on any part of the Newcastle Village Community Hall which comes to the attention of the Board.
6. It is the Board's responsibility to hire any employees and administer any human resource matters, including payroll to be paid for out of the Board's budget. Any

employee of the Board will be considered an employee of the Board and will not be considered an employee of the Municipality of Clarington under any circumstances.

7. The Board shall always maintain the Newcastle Village Community Hall in an orderly and hygienic condition as determined by the Municipality. The Board shall keep the Newcastle Village Community Hall in a clean condition and shall obtain at its expense janitorial services.
8. The Board is responsible for managing winter maintenance, including snow removal. Upon submission of required documentation, the Municipality will reimburse the Board the cost of the winter maintenance
9. The Board shall maintain and keep the Newcastle Village Community Hall and every part thereof in good working order and promptly make all needed general maintenance, repairs, and replacements, as would a prudent owner.
10. Any repairs or maintenance work undertaken to the Hall, whether structural or otherwise, shall be undertaken within the parameters of its designation under section 29 of the Ontario Heritage Act, R.S.O. 1990, c. 0.18 as a property which has historic or architectural value or interest (Municipal By-law 93-147).
11. The Board may authorize campaigns for voluntary donated funds to support the general operations of the hall or any particular phase or aspect of the hall's operation.

Use

12. The Hall may be used for such purposes as in the judgment of the Board will benefit the community, and that will promote education and the arts.
13. The Board may,
 - a) fix the hours when the Hall will be open to the public;
 - b) establish rates, fees or charges for admission to, or use of, the Property; and
 - c) adopt policies or rules for the use or rental of the Property.

Municipality Responsibilities

14. The Municipality shall retain responsibility for structural repairs or replacements to the roof, foundation or load bearing walls, building envelope and/or the mechanical equipment associated with the Newcastle Village Community Hall. The Municipality retains absolute and sole discretion for decisions relating to such repairs or replacements, and all expenditures shall require budgetary approval by the Municipality.
15. The Municipality shall be responsible for general scheduled maintenance of grounds which includes grass cutting, litter pick-up, spring and fall clean-up of the gardens, and assistance with annual mulch application on this property.
16. The Municipality shall be responsible for the repair and maintenance of the gazebo and cenotaph areas, including the provision of Canadian flags for display on the two flag poles on the property.

Board Composition

17. The Board shall be comprised of the following seven members, appointed by Council:
 - Six citizen members; and
 - 1 Member of Council, being either the Ward 4 Local Councillor or the Regional Councillor Wards 3 and 4.
18. Board tasks can be undertaken by Board members or volunteers, without creating a subcommittee or working group.
19. The Public Services Department of the Municipality shall assign a representative who will act as a Staff Liaison to the Board. As the Municipal Staff Liaison, this individual will attend Board meetings as a non-voting resource person when requested.

Board Member Qualifications

20. To be eligible to serve, a Board member must be a resident of the Municipality of Clarington.

Term Length

21. Board membership shall run concurrent with the term of Council (4 years) or until their successor is appointed.
22. In accordance with Section 196(4) of the Municipal Act, the members of the Board are eligible for appointment for more than one term.

Remuneration

23. Board members serve on a voluntary basis and do not receive any form of remuneration.

Election of Positions on the Board

24. The Board shall select a Chair bi-annually, Vice-Chair, Treasurer, and Secretary annually, from among its voting membership by a majority vote of the Board members. Members of Council sitting on the Board are not eligible to fill the position of Chair or Vice-Chair, except as Election Chair, as outlined in this By-law.
25. Before the election of Chair, a Council member shall be the Election Chair during the election portion of the meeting. Once the Chair is elected, they may take the Chair and conduct the other elections and the remainder of the meeting. See Schedule A for the Election Process.
26. If any of the elected positions become vacant, a new election shall be held for that position for the duration of the year. If the Vice-Chair becomes vacant, the Chair may appoint a member of the Board as Interim Vice-Chair until a new Vice-Chair can be elected. The elections, when required, will be held at the next meeting of the Board in accordance with the process set out in Schedule A.

Conduct of Board Members

27. Each member of the Board shall have one vote.
28. The Chair, or a spokesperson/member appointed by the Board, may speak on behalf of the Board to Council or the public. Other members shall not act, or speak, on behalf of the Board without prior approval of the Board.
29. The Board, or its members, shall not issue petitions, resolutions, or position papers on behalf of the Board unless specifically authorized by Council resolution.
30. The Board, and its members, shall also not act outside of the mandate of the Board. Should the Board wish to comment on an issue that is within the mandate of another Council committee or Board, the Chair shall consult with the responsible Staff Liaison(s) and the Chair of the other committee or Board.
31. The Board, by resolution, may request that Council remove a Member from the Board, by providing a brief explanation of the request within a recommendation in the Board's minutes (which may include closed session.)

Absences

32. Members unable to attend a Board meeting shall notify the Chair at least 24 hours in advance of the meeting.
33. If a member is absent for three consecutive meetings, or who fails to attend fifty (50) per cent of the meetings, held in any one calendar year the Board, by

resolution, and having regard for any personal, medical, or extenuating circumstances, may request that Council remove the Member, including a Member of Council, from the Board.

34. Members unable to attend a meeting cannot send an alternate.

Resignations

35. Members who wish to resign shall notify the Chair, and the Municipal Clerk, in writing, of the resignation. The Chair shall notify, either by email, or on an agenda, the other members of the resignation but shall not give details of the resignation other than timing.
36. Council may appoint new members to the Board to fill any vacancies, as required, in accordance with Clarington's "Appointment to Boards and Committee's Policy".

Chair and Vice-Chair

37. It shall be the duty of the Chair to:
- a) provide leadership to the Board;
 - b) ensure that the Board carries out its mandate and responsibilities;
 - c) act as the primary liaison between the Board, Council, Clarington Staff and Members of the Public.
 - d) set the meeting dates and agendas items, with input from Members;
 - e) provide information to Members on any matter relating to the business of the Board;
 - f) open the meeting by taking the Chair and calling the members to order;
 - g) announce the business before the Board and the order in which it is to be acted upon;
 - h) receive and submit, in the proper manner, all motions presented by the Members;
 - i) enforce the rules of procedure for meetings of the Board; and
 - j) adjourn the meeting when the business is concluded.
38. The Chair may eject any person, including another Board member, from a meeting if, in the opinion of the Chair, that person is being disruptive or uncivil.
39. If the Chair is temporarily absent, or the position becomes vacant, the Vice-Chair will assume the position and responsibilities of the Chair until a new Chair is elected.

Responsibilities and Obligations of Members

40. A member of the Board shall have the following duties:

- a) to deliberate on, and execute, the mandate and responsibilities of the Board;
- b) to attend meetings and work activities;
- c) to vote when a motion is put to a vote;
- d) to read, understand, and abide by applicable laws, policies, procedures, and rules, including the Code of Conduct, and any guidelines for the Board; and
- e) work on one working Committee.

Conflict of Interest

41. A conflict of interest may arise for Board members when their personal or business interest conflict with the duties and decisions of the Board. The municipal conflict of interest requirements as defined by the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50 will apply to the Board. A Board member must disclose any potential or perceived conflict of interest and shall remove themselves from the meeting for the duration of the discussion and voting (if any) with respect to that matter.

Frequency of Meetings

42. The Board shall meet a minimum of nine times annually.

Quorum

43. Quorum shall be a simple majority of the total number of currently appointed Board members (i.e. 50% plus one). If there is no quorum after 15 minutes of the scheduled start time, the meeting shall be cancelled and/or rescheduled.

Land Acknowledgement Statement

44. In recognition of a necessary first step towards honouring the original occupants of a place, and to recognize the traditional First Nations, Metis and/or Inuit territories of a place, and to commemorate Indigenous peoples' principal kinship to the land. The Land Acknowledgement Statement, that is consistent with the Municipality's statement, shall be read, at the beginning of each Board meeting, in accordance with the Land Acknowledgement Guidelines.

Procedure and Rules

45. A Board of Council is subject to the Clarington Procedural By-law which governs the proceedings of Council and its Committees and Boards, Council Code of Conduct, this By-law, and any other applicable policies and/or procedures. Electronic Participation
46. A member of the Board is permitted to participate electronically in a meeting and may be counted in determining whether, or not, a quorum of members is present at any point in time; and
47. For clarity, a member of the Board may also participate electronically in a meeting that is closed to the public, if the meeting is properly held in closed session (i.e. the deliberations are permitted to be conducted in closed session, moving from open session to closed session, and then rising and reporting, and maintaining minutes of both the closed and open portions of the meeting).

Open Meetings

48. All Board meetings must be open to the public unless otherwise noted.
49. The Board shall provide at least one week's notice (i.e., an agenda) for a regular or special meeting or 24-hour notice for a rescheduled meeting. Notice will be provided using as many means as possible, including the municipality's website by forwarding the agenda to the Municipal Clerk's Office.
50. The meeting must adhere to [Subsection 239 \(2\), Municipal Act, 2001](#), regarding Closed meetings.
51. In accordance with Section 239 (4) of the *Municipal Act, 2001*, before holding a meeting, or part of a meeting, that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution:
 - a) The fact of the holding of the meeting; and
 - b) The general nature of the matter to be considered at the closed meeting.
52. Where a meeting, or part of a meeting, is closed to the public, the Board shall request those persons, not specifically invited to the closed meeting, to vacate the meeting room in which the meeting is being held.

53. A meeting shall not be closed to the public during a vote except where the meeting is a closed meeting permitted or required by statute, and where the vote is for a procedural matter or for giving directions or instructions to employees of the board or persons retained under contract with the board, or officers, employees, or agents of the Municipality.
54. Minutes of the closed session shall be recorded and provided to the Clerk's Office for distribution to Council at their next appropriate meeting.

Public Participation and Delegations

55. Members of the public are not permitted to participate in the Board discussions but may appear as a delegation before the Board. Delegations shall be for a maximum of 5 minutes. Those wishing to appear as a delegation at a Board meeting must advise the Chair or Secretary a minimum of five days before the meeting.

Agendas and Minutes

56. The Board shall forward all agendas to the Municipal Clerk's Office one week before the meeting and shall include the following:
 - a) Date, time, location, electronic participation details (where applicable);
 - b) Land Acknowledgement Statement;
 - c) Disclosure of Pecuniary Interest;
 - d) Presentations / Delegations
 - e) Adoption of Previous Minutes;
 - f) Items for Discussion; and
 - g) Adjournment.
57. The Board shall report to Council by presenting the unapproved minutes immediately after the minutes are finalized by the Chair. Minutes do not wait to be adopted by the Board first. The draft minutes of all Board meetings shall be reviewed by the Chair and forwarded to the Municipal Clerk's Office for inclusion on the next Council Agenda.
58. Any changes to the minutes at the next Board meeting will be reflected in those meeting minutes and a corrected or changed version of the previous minutes shall be provided to the Municipal Clerk's Office for publication. T
59. Minutes shall include:
 - a) Date, time, location, and indication of whether electronic participation took place;

- b) Members absent and present;
 - c) Land Acknowledgement Statement;
 - d) Disclosure of Pecuniary Interest;
 - e) Adoption of Previous Minutes;
 - f) Presentations / Delegations;
 - g) Items and Recommendations Discussed and voted on;
 - h) Date, time, and location of next meeting (where applicable/possible); and
 - i) Adjournment.
60. Recommendations and decisions reached by the Board must be based on consensus wherever possible. If a consensus cannot be reached and there are different opinions on the issue, the Chair may call for a formal vote by show of hands. Recommendations and decisions will be carried by a simple majority of the voting members present.
61. Only recommendations and decisions that appear in the minutes of the Board can be considered as officially representing the position of the Board.
62. To approve a recommendation from a Board, a Member of Council shall remove it from the consent agenda and put forward a motion to approve the recommendation found within the minutes of the Board meeting.
63. See Schedule B for details on motions and amendments.

Relationship with Municipality

64. The Board will provide information to the Municipality on the operation and management of the Newcastle Village Community Hall and may be required to present a report to Council.

65. The Board may enter into the following agreements, provided they are within budgetary limits:
- a) rental agreements for private events at the Newcastle Village Community Hall;
 - b) Non-residential leases for space within the Hall for a term not to exceed 3 years;
 - c) employment contracts (subject to section 6) and
 - d) agreements for normal operating or administrative matters.
66. The municipality has the right to use the hall, when available, at no cost, in consultation with the board. The Municipality will cover any expenses associated with the use of the hall.
67. Except as expressly permitted, the Board shall not enter into any agreement which has the potential to commit funds, oblige or encumber the Municipality, or incur any debt or long-term financial obligation.
68. The Board shall submit their books and records to the Municipality annually for review by the Municipality's auditors and consolidation with the Municipality of Clarington's financial statements.
69. The Board or its members found not to be following the Terms of Reference may be reported to Council for review and to determine whether the contrary conduct requires further actions, such as removal of the member or Board. Additionally, the Municipality may dissolve the Board at any time through the repeal of this by-law.

Insurance

70. The Municipality shall provide property and third-party liability insurance coverage in respect of the Newcastle Village Community Hall.
71. The Municipality represents that general commercial liability insurance coverage is provided to the Board, its employees, and volunteers under the terms and conditions Municipality's Master Insurance Policy. The Board or its employees shall forward to the Municipality, appropriate documentation of all claims or potential claims. The Board shall undertake all of its activities in a manner consistent with that of a prudent owner in order to prevent or minimize claims, injuries, or damages, and shall work co-operatively with the Municipality's insurer in the investigation and defense of all claims.

Budget

72. The Board agrees to use all revenue generated for the exclusive purpose of operation and maintenance of the Newcastle Village Community Hall.

73. The Board is responsible for determining eligibility for grants and for applications for and administration of grant funding opportunities.
74. Upon Board dissolution, all assets, including bank accounts, shall be transferred to the Municipality, and all business records shall be turned over to the Municipality.
75. The Municipality will request input from the Board recommendations for inclusion in the Capital Budget Program. These recommendations will be considered within the approved Capital Budget Prioritization criteria. Items not considered as part of the Municipality's responsibility would include interior painting; movable equipment/furnishings and program related betterments/upgrades.
76. Any operating budget requests shall be submitted to the Municipality of Clarington in accordance with the budget timelines established by the Deputy CAO / Treasurer and shall be considered with all other budget requests.
77. On or before a date established annually by the Deputy CAO/Treasurer, the Board shall prepare and submit to Council an estimate of its financial requirements for the ensuing financial year and the Treasurer shall pay to the Board out of the funds appropriated for it by Council such amounts as may be requisitioned from time to time or shall pay the accounts approved by the Board directly in respect to and to the limitations of the approved budget revenues and appropriation. The Board shall only use those funds for the purposes identified in its estimate of its financial requirements approved by Council.

Financial

78. All income received by the Board from time to time from or in respect to any portion of the Hall shall be applied and extended in payment of the actual operating expenses of the Hall such as heating, lighting, and janitor service.
79. Any on-going surplus remaining after payment of the actual operating expenses of the Hall shall be returned to the Municipality to be held in a reserve fund which shall from time to time to be used as may be necessary or desirable by the Municipality for rebuilding, repairing, re-fitting, improving or further equipping the Hall so as to keep it from time to time well and thoroughly adapted for fulfilling the purposes described in section 11.
80. If at any time for any cause or reason the revenues from the Hall are not sufficient for its proper maintenance and use then the Municipality shall be responsible for such deficiency.

Donations

81. The Board shall keep distinct and regular accounts of its receipts (including any private donations received by it and the terms, if any, upon which such donations were made), payments, credits and liabilities. All receipts for tax purposes must be issued by the Municipality in accordance with the requirements of the Canada Revenue Agency.

Development Funds

82. The Board may, with the approval of Council, establish a development fund into which donations and net revenues, if any, may be placed for future Hall development projects and may apply any private donations in such manner as it deems advisable but not inconsistent with the terms upon which any amount was donated. Any funds intended for purposes beyond the calendar year will be automatically provided to the Municipality prior to December 31st of the year of receipt of funds, for deposit into Municipal accounts identified for Board purposes with the exception of the funds required by the Board for on-going operational requirements and will be maintained by the Municipality's Treasurer.

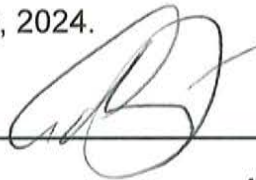
Purchasing/Procurement Policy

83. All expenditures must relate to matters directly within the mandate and responsibilities of the Board.
84. All Board expense information is considered to be public information and shall be made available upon request to the Municipal Clerk or Deputy CAO / Treasurer.
85. All purchases shall be in accordance with the Municipality's Purchasing/Procurement By-law and within the Board's approved budget. All expenses that exceed the Board's approved budget require Council approval.

Repeal

86. That By-law 2014-094 is hereby repealed.

Passed in Open Council this 16th day of December, 2024.



Adrian Foster, Mayor



June Gallagher, Municipal Clerk

Written approval of this by-law was given by Mayoral Decision MDE-2024-010 dated December 16, 2024.

Schedule A

Election Process

Nominations – Accepting nominations, from the floor, for any position:

1. Nominator raises their hand to indicate they are going to nominate a member.
2. Does not need a seconder.
3. Nominees' names are recorded in the minutes.
4. A person can nominate themselves.
5. A member can be nominated for more than one position but can only hold one position at a time.
6. A member may be nominated even if they are not in attendance.
7. Nominees do not have to leave the room during the vote. They can participate in the voting.
8. The Election Chair can continue presiding, even if they are one of the nominees for the office.
9. Nominations are open until the Election Chair asks for nominations and there are no names put forth at which time the Election Chair will close nominations.
10. Nominees can remove their name at any point during the process, or the next meeting if they are not in attendance.

Stand – As each member is nominated, the Election Chair asks the nominee if they will have their name stand. If the member does not agree their name shall not be included in the vote.

Voting

1. If there is only one nominee, that person is appointed.
2. If there is more than one nominee the Election Chair asks, for each nominee, "All those in favour of Bob Smith for Chair, please raise their hands". The person with the most votes is appointed.
3. If the vote is tied, and there are more than two people nominated for the position, the person with the least votes is removed and another round of voting with the remaining members is conducted. If a tie vote remains with two people, and all voting members are present, the selection will be made by picking a name out of a hat.

Schedule B

Motions and Amendments

1. Voting on motions and their amendments is done in this order:

- On the amendment to the amendment (the second amendment)
- On the amendment
- On the motion **or** the motion as amended (this must happen if approved amendments have been added to the motion).

2. Tied Vote

If the vote is tied, the motion is lost.

3. Majority Vote

Every member present at the meeting, when the vote is called, shall vote unless disqualified under the Municipal Conflict of Interest Act. The vote required to pass a motion shall be a simple majority.

4. Reconsider a Lost Motion

A lost motion should not come up again during the same year unless at least two-thirds of the members present to approve a motion that “the question be reconsidered.” This motion shall be added to the agenda, is not debatable and calls for an immediate vote.

5. Motions

The following steps are required to introduce, deliberate, and vote on a motion:

- A member asks to speak and when their turn comes up, they make a motion by saying “I move...”.
- Another member seconds the motion. If there is no seconder, no discussion or vote takes place; it is not recorded in the minutes; and the Committee either proposes a different motion or moves to the next agenda item.
- The Chair should restate the motion clearly after it has been made and seconded “It is moved and seconded that ...”.
- Only one motion is addressed at a time.
- Discussion is not in order until a motion has been stated by the chair.
- Discussion follows. The Chair should not allow anyone to speak twice on a motion until everyone has had a chance to speak once.

- The Chair should give up the chair when they move a motion. In this case, the Vice-Chair or any other member may act as Chair until the motion is voted on.
- The vote is taken, and the Chair announces the result – “The motion is carried”, or “The motion is lost.”

6. Negative Motions

Negative Motions are not in order and should not be allowed (i.e. “That the car not be automatic transmission” should be changed to “That the car be standard transmission”).

7. Amendments

Amendments or small changes to a motion may be proposed at any time during the discussion. It cannot be contrary to the main motion. It must be relevant to the motion and can change the motion in only one of three ways:

- By leaving out certain words
- By adding certain words
- By replacing certain words with others.

(Not more than two amendments may be made to an open motion at one time. As soon as one amendment has been accepted or rejected another may be proposed if it is different from the one already defeated).

If dealing with motions or amendments, always state the exact wording. The Chair may ask the secretary to read it if the phrase is forgotten.

Adoption of an amendment does not mean adoption of the main motion. The amendment is carried before the main motion as amended. When the “main motion, as amended” is on the floor, the Chair will state “main motion as amended” before the vote.

8. Withdrawal of Motions

A motion can be withdrawn with the consent of the mover. If the seconder withdraws a new seconder will be required before the motion can be voted on. Amendments must be withdrawn in reverse order. If the mover refuses to withdraw, the motions must be voted on.