

**PUBLIC PARTICIPATION
& PUBLIC HEARINGS**

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PUBLIC PARTICIPATION & PUBLIC HEARINGS

Planning commissions and boards of adjustment have a responsibility to inform and educate their communities on the purpose and benefits of planning, as well as invite public input on planning issues. This chapter focuses on the statutory requirements for public notification and involvement – especially provisions of the Open Meeting Law and Growing Smarter/Plus – and techniques for conducting meetings.

Well-run meetings and open public participation are vital to the ability of the commission or board to make informed and effective decisions. First, more input often leads to better decision-making, since decisions are then based on more information. Second, when the public sees the process through which decisions are made as reasonable and objective, those decisions are more likely to be accepted. Finally, State Statutes establish certain requirements with regard to public notification and input. Not following the law may invalidate a decision.

4.1 THE OPEN MEETING LAW

The operation of government and the activities of government officials are often topics of interest to the public. Generally speaking, there seems to be a distinct message delivered by the public:

**The public's business must
be conducted in public!**

Arizona's Open Meeting Law [A.R.S. § 35-5431] provides very simply that, with a few limited exceptions, all meetings of a public body shall be open to all persons desiring to attend.

The law defines a meeting as "the gathering of a quorum of members of a public body to propose or take legal action, including any deliberations with respect to such action." This means that all meetings or gatherings at which a quorum of the public body is present to discuss or decide public business must comply with the notice, agenda and minute requirements specified in the law and, except where an executive session is expressly authorized, be open to the public. Meetings of less than a quorum that are perceived to be an attempt to get around this provision are also violations of the Open Meeting Law. The law requires that any doubts on correct procedure be resolved in favor of openness.

General Provisions ■ The Open Meeting Law applies to more than just the meetings of the Legislature, the boards of supervisors, and city or town councils. It applies to any "public body." If the public body or its presiding officer appoints a committee or subcommittee to study a particular issue, the law also governs the meetings of the committee or subcommittee, regardless of the composition of the group. This means that planning and zoning commissions, boards of adjustment, library boards, school boards, special district boards, and any standing, special, and

advisory committees or subcommittees to these groups, must all comply.

Sanctions ■ If any business of a public body is conducted in violation of the provisions of the Open Meeting Law, the actions taken at such a meeting are null and void. In addition, any person affected, the Attorney General, or the county attorney may file an action and obtain civil penalties, attorneys' fees and court injunctions against the public body or individual who violated the law. The court may remove that person or those persons from office and personally assess them with the attorneys' fee award.

Ratification ■ A public body may ratify legal action previously taken in violation of the law. Ratification is appropriate when the public body needs to validate a prior act in order to preserve the earlier effective date of the action. For example, some public bodies are required by law to approve their budgets by a certain date. If the public body discovered after the statutory deadline that its earlier approval was void due to a violation of the Open Meeting Law, it could face serious legal problems. In this situation, it would be appropriate for the public body to meet and ratify its prior action in order to preserve the initial effective date of the action. Ratification merely validates the prior action; it does not eliminate liability of the public body or others for injunctive relief, penalties and fees. The procedure for ratification is prescribed in A.R.S. § 38-431.05(B).

4.1.1 Public Notice Requirements

The Open Meeting Law requires that public notice be given for all public meetings and executive sessions. In giving notice, the first step is to file a statement with the municipal or county clerk identifying where public notices of the meetings of the public body will be posted. Once this statement has been filed, the law requires that the public body post notice each of its meetings

in accordance with this statement and “give such additional notice as is reasonable and practicable.” The notice must be posted at least twenty-four hours before the meeting, and must include the time, date, and place of the meeting.

Any public body that intends to meet for a specified calendar period on a regular day or date and at a regular place and time may post public notice of these meetings at the beginning of this period of time. For example, a notice of regularly scheduled meetings of a city council may be posted once at the proper location to cover all regular meetings taking place during a specified period of time. The notice must indicate the period of time for which the notice will be valid.

Notice for Meeting Resumption ■ Except when an actual emergency is found to exist, no public meeting or executive session may be held with less than twenty-four hours notice to the members of the public body and the general public. However, a meeting may be recessed and resumed with less than twenty-four hours notice if public notice of the initial session of the meeting was properly given; and if, prior to recessing, notice is publicly given as to the time and place of the resumption of the meeting, or the method by which public notice for the resumption of the meeting is to be given.

The only exception to these provisions for public notice is in the case of an emergency when a meeting can be called with notice appropriate under the circumstances.

4.1.2 The Meeting Agenda

The Open Meeting Law requires that the public body provide an agenda of the specific matters to be discussed, considered or decided at a public meeting. This does not permit the use of agenda items such as “new business” or “old business” unless the specific items of new and old business are listed. The agenda should “contain such information as is reasonably necessary to inform

the public of the matters to be discussed or decided.” In addition, public bodies may include a “call to the public” in their agendas to designate a part of the meeting during which members of the public may address the public body on any issue. However, it should be noted that the public body should not discuss or take action on the issues raised during the call to public, but may decide to place the issue on a future agenda for discussion or action. If it is essential that the body act immediately, it should declare an emergency and take action in accordance with the emergency procedure prescribed in A.R.S. § 38-431.02.

The agenda may be included as part of the public notice, or if the notice advises the public as to how they can obtain an agenda, it can be distributed separately from the notice. In either case, the agenda must be made available at least twenty-four hours before the meeting, unless an actual emergency is found to exist.

Preparing the Agenda ■ The agenda for any single meeting should not be overloaded. If necessary, schedule an occasional extra meeting to clear any backlog of items that need to be considered. This is better than holding a marathon meeting to tackle a long list of items. Prior to regular meetings, boards and commissions may opt to hold study sessions with staff present to review complex cases and familiarize themselves with the case materials. Study sessions are useful because they provide an informal setting for commission members to discuss and ask questions, and also provide the public or potential applicants the opportunity to learn commission’s concerns and philosophy prior to a formal hearing.

Schedule topics on the agenda to avoid inconvenience or delays to the public, and follow the agenda. Unopposed and noncontroversial items should be addressed first, allowing the people connected with them to leave early on. This practice will also help move things along expeditiously on the agenda.

Consent and Action Items ■ Many commissions find that dividing the agenda into two parts, consent and action items, helps speed the meeting along. Items listed under consent are usually decisions for which there is no controversy, consensus has been reached, no new information is available, and the case already has been reviewed by the commission in detail. The consent items are read at the public meeting. Before a motion is made and note is taken, the chair asks if any commissioner or member of the public would like any of the items removed from the consent agenda in order to hear discussion of the item. If no one objects, then a motion to approve the consent agenda is made and the vote taken. If any item is removed, it is put on the regular agenda. The commission can then move on to action items.

For each action item, staff should present the facts of the case and staff recommendations. Board members and commissioners should ask any questions of staff not addressed in any pre-meeting study session before turning to the applicants to present their case. Finally, board members and commissioners may ask brief, pertinent questions of the applicants. This should be an opportunity to gather new information to aid in decision-making.

4.1.3 Executive Sessions

The Open Meeting Law permits public bodies to hold an executive session – a closed meeting from which the public may be excluded – for discussion and consideration of particular subjects. The law specifies the seven purposes for which an executive session may be called. These are:

- 1 | Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resigning of a public officer, appointee or employee of any public body (with the exception of salary discussions in which an

officer, appointee or employee may demand that such discussion or consideration occur at a public meeting). The public body must provide the officer, appointee or employee with such notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether such discussion or consideration should occur at a public meeting.

- 2 | Discussion or consideration of records exempt by law from public inspection.
- 3 | Discussion or consultation for legal advice with the attorney(s) of the public body.
- 4 | Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorney(s) regarding the public body's position in pending or contemplated litigation.
- 5 | Discussion or consultation with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.
- 6 | Discussion, consultation or consideration for international and interstate negotiations.
- 7 | Discussion or consultation with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiation for the purchase or lease of real property.

The law only permits an executive session in these instances; it does not require an executive session. Planning commissions and boards of adjustment

should establish, with the assistance of their local attorney, a clear procedure to use when holding an executive session.

Public Notice of Executive Session ■ Before an executive session may be held, twenty-four hours notice of the executive session must be given, and a majority of the public body must vote in public to hold the executive session. For example, if the need for an executive session arises during the course of a regular meeting, the public body may vote to hold the session. However, the executive session cannot be held at that time, unless at least twenty-four hours notice has previously been given. The notice must cite A.R.S. § 38-431.02, the specific provision of law authorizing an executive session.

Executive sessions may be held during a public meeting if the proper notice of the executive session is posted as part of the public meeting notice or as a separate notice. If the need for an executive session arises at a time other than during a meeting, a notice calling a special meeting and an executive session must be posted. The special meeting must be convened to vote on holding an executive session, and then upon a majority vote in a public meeting, the public body may adjourn into executive session.

The Agenda for Executive Session ■ Agendas for executive sessions must contain a “general description of the matters to be considered” but should not contain information that “would defeat the purpose of the executive session.”

No executive session may be held for the purpose of taking any legal action involving a final vote or decision.

4.1.4 Meeting Records

All public bodies, including subcommittees and advisory committees, must provide written minutes or a recording of all meetings. The minutes or recording of all public meetings must include, at a minimum, the following:

- 1 | The date, time and place of the meeting.
- 2 | The members of the public body recorded as either present or absent.
- 3 | A general description of the matters discussed or considered.
- 4 | An accurate description of all legal actions proposed, discussed or taken, the names of members proposing motions, and each member’s vote.
- 5 | The names of persons, as given, making statements or presenting material to the public body and a reference to the specific legal action addressed by the person.
- 6 | If the discussion in the public session does not adequately disclose the subject matter and specifics of the action taken, the minutes of the public meeting at which such action was taken should contain sufficient information so that the public may investigate further the background or specific facts of the decision.
- 7 | In the event that matters not on the agenda were discussed or decided at a meeting because of an actual emergency, the minutes must contain a statement setting forth the reasons necessitating the discussion, consideration or decision without the matter being placed on the agenda.
- 8 | Finally, if a prior act is ratified, the minutes must contain a copy of the disclosure statement required for ratification.

In addition to written or recorded minutes of the meeting, the law provides that any part of a public meeting can be recorded by any person in attendance by means of a tape recorder, camera or other means of sonic reproduction as long as there is no significant interference with the conduct of the meeting.

Minutes of Executive Sessions ■ The minutes or a recording of any meeting, except for the minutes of executive sessions, must be open to public inspection no later than three working days after the meeting. Minutes must be taken in executive sessions and must be kept confidential except from the members of the public body that met in executive session or officers, appointees or employees who are the subject of discussions. The minutes of executive sessions must contain the information described in paragraphs 1, 2, 3 and 7 above. If the public body wishes to exclude all staff from attending the executive session, then a member of the public body should record the minutes.

A 1983 amendment to the Open Meeting Law allows the Attorney General or the county attorney access to the executive session minutes under certain circumstances. First a written complaint must be submitted alleging a violation of the law as it relates to executive sessions. Secondly, the Attorney General or the county attorney must issue an investigative request for the minutes of the executive session. Upon receipt of the request by the public body, including a city or town, the public body may comply with the request or, upon a majority vote, apply to a superior court in the county for a protective order directing that the minutes of the executive session not be disclosed.

The court then determines whether or not the minutes of the executive session are relevant to the complaint and can order them released if “justice so requires.” At the public body’s option, it may also disclose the minutes to the attorney general or the County Attorney.

4.2 PUBLIC PARTICIPATION REQUIREMENTS IN PLANNING & ZONING

4.2.1 General and Comprehensive Plans

The Growing Smarter and Growing Smarter Plus legislation was passed in 1998 and 2000, respectively, and included provisions related to public participation in the planning process. Legislation was passed in 2002 (House Bill 2601) that clarified some aspects of the mandates. Public participation procedures that are currently required by State Statutes to accompany general or comprehensive plan development, or the consideration of major amendments to the plan, are summarized below. For more information on the planning process or coordination with other agencies, please refer to Chapters 6 (for municipalities) and 7 (for counties).

Adoption of Written Procedures ■ The statutes require that the governing body adopt written public involvement procedures that will “provide effective, early, and continuous public participation in the development and major amendment of general plans from all geographic, ethnic, and economic areas.” It is suggested the adoption of a public participation plan be one of the first steps taken by a community or county as it embarks on the development or update of a plan. The statutes specify that these procedures address:

- The broad dissemination of proposals and alternatives
- The opportunity for written comments
- Public hearings after effective notice
- Open discussions, communications programs and information services
- Consideration of public comments

Adoption of the Plan Document or Major Amendment

■ The planning commission, if one exists, must hold a public hearing to discuss the draft plan or amendment to the plan in accordance with the meeting and noticing requirements in State Statutes [see A.R.S. § 9-461.06(D) and (G) for municipalities and A.R.S. § 11-823(B) for counties]. If the municipality's population is larger than 25,000, two or more hearings must be held in different locations throughout the community. Once a recommendation on the plan is transmitted to the legislative body of the municipality or county, another hearing must be held prior to legislative action. If a motion to adopt or readopt a plan or major amendment fails to pass, the motion may be reconsidered in any manner allowable under the governing body's rules of procedure, but any subsequent motion must be approved by an affirmative vote of at least two-thirds of the governing body. Many municipalities will be subject to the ratification requirement before a proposed general plan is put into effect.

If a county fails to adopt or readopt the comprehensive plan, the current plan will remain in effect until a new plan is adopted. The board of supervisors must either reconsider the proposed plan or consider a revised plan within one year, and continue this process until one is adopted.

Major amendments should be defined in each plan, and are subject to different adoption requirements than minor amendments. Major amendments may be heard only once per calendar year at a single hearing, and application must occur in the same calendar year as a proposal is made [see A.R.S. § 9-461.06 (G)]. To approve the adoption or readoption of a major amendment, at least two-thirds of the governing body must vote affirmatively for approval.

Ratification ■ Upon adoption of the plan by the governing body, the plan must be ratified by a public vote before it can become effective. This

applies to jurisdictions that meet either of the following two conditions.

- ▶ A population of 2,500 or more with an annual growth rate averaging 2% or more for the 10 year period of the most recent census, or
- ▶ A population of 10,000 or more.

The vote for ratification should occur at the next regularly scheduled general election or at a special election scheduled at least 120 days after the adoption of the plan, pursuant to A.R.S. § 16-204. The governing body shall include a description of the general plan and its elements in the election pamphlet and the plan shall be made available at two locations that are easily accessible to the public. The general plan may also be made available on the municipal website.

If the plan fails to be approved by the majority of voters in the election, the current plan will remain in effect until a new plan is ratified by means of the process described above. This can occur either at the next regularly scheduled general election or at a special election scheduled at least 120 days after the governing body has readopted the new or a revised new plan.

4.2.2 Notice for Zoning Hearings

The state requirements for most zoning hearings are lengthier with more elaborate notification procedures, in comparison to other meeting requirements. The citizen review process and all notification and hearing requirements apply to a zoning ordinance that changes any property from one zone to another, imposes any regulation not previously imposed on a property, or removes or modifies any regulation previously imposed.

Citizen Review Process for Rezonings ■ State Statutes require that the governing body adopt a citizen review process for rezonings by ordinance [A.R.S. §§ 9-462.03(A) and 11-829(B)]. This

process would then apply to all rezoning and specific plan applications that require a public hearing. The citizen review process should include procedures to address the following:

Notification will be provided to adjacent landowners and potentially affected citizens of the application.

The municipality will inform adjacent landowners and potentially affected citizens of the substance of the proposed rezoning.

Adjacent landowners and other potentially affected citizens will be provided an opportunity to express any issue or concerns with the proposed rezoning before the public hearing.

Please note that the statutes already include fairly specific requirements for notification, as summarized below.

Municipal Notice Provisions ■ In 1988, the State Legislature amended A.R.S. § 9-462.04 requiring additional notice for municipal zoning ordinance changes. Notice for a rezoning hearing must include 1) the time and place of the public hearing, 2) a general explanation of the matter to be considered, and 3) a description of the area affected. Notice shall be given at least fifteen days prior to the hearing by the following means:

- ▮ Publication at least once in a newspaper published or circulated in the municipality,
- ▮ If there is no newspaper fitting this description, the notice must be posted on the affected property and in at least 10 public places in the municipality. All posted notices must be printed so that the following information is visible from a distance of 100 feet:
 - the word “zoning”

- the present zoning district classification
 - the proposed zoning district classification
 - the date and time of the hearing
- ▮ If the proposed rezoning involves land that abuts other municipalities or unincorporated areas of the county or a portion thereof, copies of the notice for the public hearing should be transmitted to the planning agency of the abutting jurisdiction(s).
 - ▮ If the rezoning is not initiated by the property owner, notice must be sent by first class mail to each real property owner of the area to be rezoned, as shown on the last assessment of the property, and to all property owners within 300 feet of the property to be rezoned.
 - ▮ If the rezoning involves land that is within the territory in the vicinity of a military airport as defined in A.R.S. § 28-8461, then the municipality must send copies of the notice for the public hearing by first class mail to the military airport (1995 amendment).

Some rezoning proceedings are subject to additional requirements (note that these criteria and requirements also apply to counties), if the following changes are proposed:

- ▮ A ten percent or more increase or decrease in the number of square feet or units that may be developed
- ▮ A ten percent or more increase or reduction in the allowable height of buildings
- ▮ An increase or reduction in the allowable number of stories of buildings
- ▮ A ten percent or more increase or decrease in setback or open space requirements
- ▮ An increase or reduction in permitted uses

If these criteria are met, then the municipality must provide notice to the real property owners pursuant to at least one of the following notification procedures:

- ▶ First class mail to each real property owner whose property is directly governed by the changes.
- ▶ Notice may be included with utility bills or other mass mailings to each property owner directly involved in the changes.
- ▶ Prior to the first hearing on proposed changes, the municipality may publish such changes in a newspaper of general circulation. The changes should be published in a “display ad” covering not less than one-eighth of a full page.

If notice is provided via one of the last two methods described above, the municipality should also send notice by first class mail to persons who register their names and addresses with the city as being interested in receiving such notices. A municipality or county may charge a fee not to exceed five dollars a year for providing this service and may adopt procedures to implement this provision.

If the municipality’s planning commission (or hearing officer) has held a public hearing on the proposed changes, the governing body may adopt the recommendations of the hearing body without holding a second public hearing if there is no objection, request for public hearing, or other protest. Please note that the meeting to adopt the proposed changes must still conform to Open Meeting Law requirements.

County Notice Provisions ■ Any applicant petitioning for changes or amendments to the county zoning regulations changing the zoning district boundaries within an area previously zoned must file an application with the county. Upon receipt of the application, the board of supervisors must submit it to the commission for a report.

Prior to reporting to the board, the planning commission shall hold at least one public hearing after giving at least fifteen days notice in a newspaper of general circulation in the county seat and by posting in the area of the proposed change. In the case of a rezoning, the posting must be in no less than two places with a least one notice for each quarter mile of frontage along perimeter public rights-of-way. The notices should be visible from the nearest public right-of-way. The commission shall also send notice by first class mail to 1) each real property owner within 300 feet of the proposed change, and 2) county and municipality who is contiguous to the area of the amendment or change. If the commission initiated the proposed change, then notice must be sent via first class mail to each real property owner of land whose property would be governed by the proposed change as well.

The notice referenced above must include the following information:

- 1 | The date, time, and place of the public hearing
- 2 | A general explanation of the matter to be considered
- 3 | A general description of the area of the proposed amendment or change
- 4 | How the real property owners within the zoning area may file approvals or protests to the proposed rezoning
- 5 | Notification that if 20% of the property owners (by area and number) within the zoning area file protests, then an affirmative vote of at least three-fourths of all members of the board of supervisors would be required to approve the rezoning

Some rezoning proceedings are subject to additional requirements, similarly to municipalities. The same criteria and

requirements apply to counties and municipalities.

The county board of supervisors may adopt the amendment after holding a public hearing. If the planning commission or hearing officer has held a public hearing, the board may adopt the commission's recommendations through use of a consent calendar without holding a second hearing if there is no objection, request for a public hearing, or other protest. The board then may adopt the amendment after the hearing; however, if 20% of the owners of the property within the zoning area (by area and number ²⁶) file a protest to the proposed change, approval of the change would require affirmative votes from at least three-fourths of the board members.

4.3 SUCCESSFUL PUBLIC MEETINGS

Planning commissions and boards of adjustment spend the majority of their working time in public meetings. The community's impression of the commission or board depends largely on their conduct and professionalism. Following are tips for conducting a successful public meeting:

- ▶ Keep the meeting on track. The chair plays a very important role in ensuring that the meeting is conducted smoothly and that the agenda is adhered to. The commission or board should have a set meeting procedure to follow.
- ▶ Keep the meeting under control. Do not allow members of the public to clap, cheer, whistle, etc.; the chair should "gavel down" this kind of behavior. The chair should prevent

²⁶ In calculating the owners by area, only that portion of the lot or parcel of record that is within 300 feet of the property to be rezoned shall be included. In calculating the owners by number or area, county property and public rights-of-way should not be included [A.R.S. § 11-829 (D)].

commissioners or members of the board from accusing or overtly challenging each other, staff, members of the public, or persons testifying.

- ▶ Commissioners or members of the board should never bring up the pros and cons of an agenda item before all testimony and evidence have been presented. Then the discussion should focus on the facts presented, not on the presenters.
- ▶ All applicants and members of the public providing testimony should be afforded the same courtesy, attention, and time before the commission or the board. Communication should be formal; joking and use of nicknames may be considered disrespectful.
- ▶ The commission or the board should avoid becoming bogged down in petty details or endless requests for additional data just to avoid decision-making. The chair should move the meeting along by summarizing the facts and the positions presented by commission or board members, and bringing matters to a vote.
- ▶ If absolutely necessary, the commission or the board may postpone making a decision until after an especially heated hearing, thereby allowing clearer thinking to prevail.
- ▶ If the meeting gets out of control and it is necessary to stop proceedings, the agenda item under discussion may be continued to a specified date and time.
- ▶ When in doubt as to how to proceed, the commission or the board should seek an opinion from their attorney.

Making Decisions ■ All formal actions (voting) taken by the commission or board are initiated by motion. For example, a commissioner might say, “I move that the commission recommend the rezoning of the subject property from R1-6 single family residential to R2 multi-family resident.” Stating a motion places a matter before the commission or board for its consideration and permits debate to take place. Amendments to the main motion are always voted on before voting on the main motion itself. Discussion must be pertinent to the motion that is under consideration. Following discussion on the motion or during a roll call vote, members should give their reasons for supporting or not supporting the motion as stated.

If the commission or board is lacking enough information to make a decision on an application, they should request that the applicant provide them with aerial or topographic maps of the area, surveys, engineering studies, reports or whatever is needed to make an informed decision. The commission or board has a right to reasonable requests for information; however, the additional time and expense to the applicant should be considered.

A short statement explaining the commission’s or board’s vote provides the applicant, the public, and the elected body with the reason for an action. For example, a commissioner may say: “I’m voting against this proposal because it clearly conflicts with our general plan, and the evidence presented does not provide sufficient justification to amend the general plan”. This will be important to support the commission’s or board’s position if a decision is appealed.

Public Hearing Protocol ■ Public hearings must be opened with a motion. When all testimony has been heard, the hearing must be closed with a motion, and the meeting resumed.

A typical hearing process includes the following steps:

- 1 | Call to Order by Chair - If a study session is held, the board members review agenda items. The chair closes the study session, typically takes a 5-minute break, then calls to order the regular meeting. Chair can review the format of the hearing and lay the ground rules for those in attendance at this time.
- 2 | Quorum - Chair notes if a quorum is present
- 3 | Call to Public or Communication from Citizens - Board hears comments from the public. Discussion does not occur on items raised. However, a board or commission member may make a motion to place an item on a future agenda for discussion, so that the item may be properly noticed.
- 4 | Consent Calendar - Typically items for action by motion with minimal discussion. For example, a consent item may be to review, amend, edit, or revise minutes from the last meeting. Projects may be placed on the consent calendar that have been deliberated in detail at previous meetings. A motion to accept the consent calendar is given, seconded, and the board votes. Chair verbalizes the outcome of the vote for the record.
- 5 | Public Hearings - Each agenda item is taken through steps (a) to (g):
 - a) Staff reviews project - Board may ask questions through the chair. At this time, the chair may declare time limits for presentations by applicant and those speaking in favor or opposing the project.
 - b) Applicant presents evidence - Staff or board may ask questions through the chair.

- c) Chair opens the public hearing - Chair asks if any members of the public wish to speak.
- d) Rebuttal - Chair asks the applicant if he wishes to respond to any of the public's comments.
- e) Chair may ask board members for comments or questions.
- f) Chair asks if there are any more public comments and, if there are none, closes the public meeting.
- g) Chair asks the board for discussion, then a motion - Board members may discuss all information at hand, review stipulations, consider additional conditions, and/or consider continuance. A board member (in most communities it is someone other than the chair) makes a motion to grant, grant with stipulations, deny, or continue the proposal. After a board member (typically, someone other than the chair) seconds the motion, the board may discuss the motion, and make amendments if desired. The chair restates the contents of the motion (if needed) and a vote is taken. The result of the vote is announced.
- h) All items in Step 4 are repeated for each case on the agenda.

6 | Announcements - Staff or board may announce information, request a concern be passed on to council, request information, etc.

7 | Adjournment - Meeting can end by vote or general consent.

Note: Some communities hold a worksession immediately prior to the hearing. The worksession is noted on the agenda and announcement that is posted. The applicant and public can attend the worksession; however, any and all communication with the board/commission/council is reserved for the public hearing.

The purpose of public hearings is to help answer the following questions:

Were the issues clearly defined and fully addressed?



Did the evidence provide sufficient information to reach a decision?

How does the proposal match the goals and objectives of the general or comprehensive plan? Did the testimony provide sufficient reason for deviating from the plan?

Before the commission or board votes on the case the chair may allow anyone in the audience wishing to speak to the issue the opportunity to do so. Sign in sheets outlining meeting protocol and the order of agenda items should be available to those wishing to speak. The form should ask for the speaker's name, address, and position on the particular issue they will be addressing (in support of, or opposed to, the item). A time limit should be set for those wishing to speak (3 or 5 minutes maximum per person). Speakers representing a group may be allowed more time than individuals. The form may also allow for the submittal of written comments, so that people not comfortable public speaking still have opportunity to provide comments (instead the chair or commission secretary could read the comments into the record). The meeting procedure should be outlined in the commission's and board's bylaws.

Before speaking to the issue the speaker should state their full name and address for the record. Individuals holding the floor should be allowed to direct relevant questions through the chair to anyone they wish if the response will provide information that will be of assistance to the commission or board in reaching a decision. If

expert witnesses (planners, real estate appraisers, traffic engineers, etc.) testify, the commission or board should attempt to make certain the evidence presented is unbiased. Although cross-examination of witnesses is usually not appropriate, especially in the less formal format of planning commission hearings, it may be appropriate and advisable to question witnesses in the quasi-judicial setting of a board of adjustment hearing.

Rebuttals should be allowed only if the speakers present new and relevant information for the commission's or board's benefit. The chair should not allow anyone to filibuster, harangue the audience, engage in personal insults or exchanges, or read long documents like the names on a petition (instead, the petition may be entered into the record).

4.4 COMMUNITY INVOLVEMENT TECHNIQUES

The commission's most significant tool for successful public interaction is communication with community members. The commission should select one of its most articulate members, preferably the chair, as spokesperson, to represent and speak for the commission regarding its decisions. The spokesperson should also be accessible to reporters and have the authority to prepare news releases with staff and commission. The city or county planning director and staff, who have public presentation skills, may also aid the community's planning and public information goals by speaking to organizations, writing clear, lucid reports, and providing accurate information to the media.

Commissioners should be sensitive to public opinion and concerns regarding development-related issues. Public hearings do not necessarily provide an accurate gauge of public sentiment. For broad efforts such as the development of an ordinance or the general or comprehensive plan,

individual meetings with people representing special interests such as homeowners associations, parent-teacher organizations, the chamber of commerce, and civic groups can provide an excellent opportunity to exchange ideas, discover their wishes and concerns for the community's future, and gain support and understanding of the commission's goals and purpose. Public participation in formulating goals and policy is one of the purest forms of democracy.

Citizen Committees ■ Citizen planning committees may be appointed by the planning commission, the city or town council, or the board of supervisors to augment and assist with special projects such as the development of the general or comprehensive plan, specific plans, redevelopment plans, or the preparation of an ordinance. These committees identify the issues, study information prepared by staff, make findings, and develop policy recommendations for submittal to the elected officials through the commission. Citizen planning committees are different from council or board appointed standing committees that answer directly to the elected body.

To avoid the duplication of efforts by special committees or boards, and to ensure coordination with the staff and commissioners, the following steps should be taken:

- 1 | Establish a close working relationship between the appointing body, the staff, and the citizen committee. Make each group's role and responsibilities completely clear from the outset. Depending on the purpose of the committee, it might improve communication to have at least one board or council member appointed to serve on the committee as a liaison between the groups.
- 2 | The committee should present its findings and recommendations to the appointing body, which should review and comment

before passing it on to the elected body if necessary.

- 3 | The committee should serve for the project duration and, upon completion of its mission, members should be thanked, and the committee promptly disbanded.

Other Techniques ■ There are numerous other methods for facilitating community education and involvement in the planning process. These include public meetings or open houses, community newsletters, or community surveys. Some communities will also conduct focus groups and interviews to interact either one-on-one or in small groups to discuss an issue intensively and openly. Visioning workshops are often an early step in the general or comprehensive plan process, and are a forum for brainstorming a vision for the future of the community. The goals and policies in the plan emanate from the broad, overall vision statement developed by community members in this setting.

A more detailed discussion of community involvement techniques and tools is outside the scope of this Handbook. The Community Planning Office can provide expertise and maintains a library that houses a growing body of literature on the subject. Please call 602-771-1191 if you are interested in more information.