



# BOISE COUNTY

## RESOLUTION 2010-04

### A BOISE COUNTY RESOLUTION ADOPTING LAND USE-RELATED HEARING PROCEDURES

**WHEREAS**, Idaho Code requires that Boise County maintain a regular set of procedures for land use-related public hearings held by the *Boise County* Planning and Zoning Commission and governing board; and

**WHEREAS**, from time to time it is beneficial to review and revise those hearing procedures to better facilitate input from the public and to promote an informative and expeditious hearing;

**NOW THEREFORE BE IT RESOLVED** by the governing board of *Boise County* to hereby adopt the following land use-related public hearing procedures:

#### Section 1. Providing Notice of Land Use or Development-Related Public Hearings

- a. If a public hearing is required by law or ordinance, the Planning and Zoning Commission and, when applicable, the governing board shall hold at least one public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a succinct description of the proposal shall be published in the official newspaper of the *Boise County*.
- b. In the case of conditional use permits, rezones, subdivisions, planned unit developments and variances, notice shall also be provided as required by law to property owners within the land being considered; either adjoining or within six hundred feet (600') of the external boundaries of the land being considered as appropriate; and within any additional area that may be substantially impacted by the proposal as might be determined by the Planning and Zoning Commission, governing board or *Boise County* staff. Contents of the mailed notice should include the basic information required by applicable provisions of law and this resolution and, when known at the time of mailing or publication, any standards for oral testimony, time limits for testimony, time or length limits for written submissions, and other conditions or requirements governing participation.
- c. When notices are required to be sent to two hundred (200) or more property owners, a notice of public hearing, at least 2 columns wide by 4" in height, published in the official newspaper of *Boise County* at least fifteen (15) days prior to the hearing, shall be deemed a proper alternative to mailed notices.
- d. Land that is the subject of any required public hearing shall be posted with signs describing the nature of the action to be considered, contact information for the *Boise County* Planning and Zoning staff, and the time, date and location of the hearing. Such

on-site signage shall be posted by **Boise County** at least fourteen (14) days prior to the hearing.

## **Section 2. General Standards and Requirements for Oral Testimony**

a. At the commencement of the public hearing, the presiding officer shall establish a time limit to be observed by all speakers, unless spokespersons with different time limits are designated. If no different time limit is established by the presiding officer or by the notice of hearing that has been provided, the time limits shall not exceed fifteen (15) minutes for an applicant's oral presentation, five (5) minutes per person for individual audience testimony and ten (10) minutes for applicant rebuttal. Additional time may be allowed by the presiding officer upon a showing of good cause.

b. No person shall be permitted to testify or speak at a public hearing unless such person has signed his name and written his residential address on sign-up sheets which shall be provided at the hearing. This requirement shall not apply to staff or technical witnesses directed by the chairperson to give evidence or information to the hearing agency.

c. The governing board may suspend or amend any one or more of the discretionary pre-announced hearing procedures by majority vote of the governing board, then in attendance, upon finding that changes are necessary to conduct orderly or effective proceedings or to assure fundamental fairness.

d. Spokespersons may be designated in order to allow relevant testimony for a period longer than provided herein or by notice. Anyone who desires to appear as a representative of a group at the hearing should contact the Clerk at **Boise County** at least five (5) days prior to the hearing with evidence and justification of representative status. **Boise County** may then evaluate and inform the requestor if s/he will qualify as a representative spokesperson for the hearing.

e. Any person desiring to speak must first be recognized by the presiding officer.

f. Testimony must directly address the subject at hand.

g. Testimony must not be repetitious with other entries into the record.

h. Testimony must not be personally derogatory to other hearing participants.

i. Testimony shall comply with time restrictions established by the presiding officer, the governing board or this Resolution.

j. If oral testimony fails to comply with the aforementioned standards, the presiding officer may declare such testimony out of order and require it to cease.

k. All public hearing proceedings shall be recorded electronically or stenographically and all persons speaking at such public hearings shall speak before a microphone in such a

manner as will assure that the recorded testimony or remarks will be accurate and complete.

### **Section 3. Procedure for a Legislative Public Hearing**

Legislative hearings involve adoption of, or amendment to, the comprehensive plan or land use/development ordinances. A draft legislative proposal must be prepared and available for public inspection when the initial notice of public hearing is published. Legislative public hearings shall generally follow the order of events set forth below:

- a. Brief introduction of the subject of the hearing by **Boise County** staff identifying the nature of the proposal.
- b. Receipt of testimony by public.
- c. Closure of hearing.
- d. Action on the legislative proposal whenever deemed appropriate by the governing board.

### **Section 4. Procedure for Quasi-Judicial Public Hearing**

Quasi-judicial hearings involve site-specific decisions (such as considering a subdivision, conditional use permit application or rezoning specific property, as opposed to legislative hearings which require decisions that have a broad application such as a change in the text of a zoning ordinance or comprehensive plan which does not necessarily affect one specific parcel of land). Quasi-judicial public hearings shall follow the order of events set forth below:

- a. Brief introduction of the subject of the hearing by **Boise County** staff identifying nature and location of request.
- b. Presentation by applicant. (Decision-makers shall address their questions to the applicant at this time, if possible.)
- c. **Boise County** staff/consultant report. (Decision-makers shall address their questions to staff/consultant at this time, if possible.)
- d. Open public hearing testimony from public in the following order: (Questions from the decision-makers shall be asked of the person testifying before they leave the podium whenever possible.)
  1. Speakers in favor of the application
  2. Neutral speakers
  3. Speakers opposed to the application
- e. Rebuttal testimony from applicant. (Decision-makers shall ask for any final questions.) If new facts are elicited at any point during rebuttal, the public must be given an opportunity to comment on such new facts.
- f. Public Hearing Closure.
- g. Discussion of hearing subject among governing board members. Questions may also be directed to staff during this period. Any procedural rules requiring a motion prior to discussion are hereby suspended for purposes of such discussion. Decision-

makers may table the matter until later in the meeting or to a later date for further deliberations.

- h. The recommendation or final decision shall state why the specific result was reached. A reasoned statement that explains the criteria and standards considered relevant, the relevant facts relied upon, and the rationale for the decision based on applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record, shall be part of the motion to approve or deny or shall be developed with staff/consultant assistance for action at a subsequent meeting.

## **Section 5. Standards for Written Submittals in Quasi-Judicial Hearings**

Written testimony and exhibits from the public to be presented for the record shall comply with the following standards:

- a. Written submittals, other than petitions or illustrations, must be submitted at least seven (7) calendar days prior to the date of the public hearing.
- b. Written submittals shall include the name, signature or e-mail address and physical address of the submitter.
- c. Written submittals shall address the issue at hand. Portions of written submittals that raise irrelevant issues or include improper information may be excluded from consideration in whole or in part.
- d. Written testimony shall not be personally derogatory.
- e. As a general rule, documentary evidence shall only be admitted to the record in accordance with the terms of this resolution and consistent with the notice given in any particular case. Documents may be submitted at the public hearing only with the approval of the presiding officer upon a showing of necessity or an absence of harm to other interests and only if their introduction will not inject unfair surprise into or unduly delay the hearing. Petitions with gathered signatures may be submitted at a hearing. The presiding officer may require duplication of any accepted documents or may grant continuation of any hearing, if necessary, to provide an opportunity for response from hearing participants. Documents submitted, after the closing date for written comment, may be accepted for inclusion in subsequent proceedings, if any are to be conducted.
- f. If documentation submitted at a hearing fails to comply with the aforementioned standards, the presiding officer may decline to admit them for consideration during the hearing but may accept them for subsequent proceedings as herein authorized.

## Section 6. Documentary Exhibits

All exhibits, photographs, diagrams, maps, evidence and other documentary material presented during a public hearing shall be identified and entered into the record. Exhibits from an applicant must be submitted with the application and shall be marked for identification prior to the hearing. Enlarged copies of submitted exhibits may be used for purposes of illustration during a hearing without need to be included in the retained record. Original exhibits may be released to the presenting party if requested in writing and if photocopies or photos of the originals are provided to be maintained in the record.

## Section 7. Records Maintained

The Clerk shall maintain records of all public meetings in the following manner:

- a. Transcribable, verbatim recordings of the public hearing and deliberation proceedings shall be maintained in conformance with Idaho Code.
- b. Originals of written submittals to the hearing record and copies of applications shall be maintained in conformance with Idaho Code.
- c. Minutes, which catalog the occurrences at the public hearing and subsequent deliberations, shall be maintained as required by applicable sections of the Idaho Code.

## Section 8. Effective Date

This resolution shall be in full force and effect from the date of its adoption and will supersede all other hearing procedures in land use ordinances.

**APPROVED** and **ADOPTED** by the Boise County Board of Commissioners in Open Session on the 16<sup>th</sup> day of November, 2009.

### BOISE COUNTY BOARD OF COMMISSIONERS

absent  
**LINDA W. ZIMMER**, Chairperson

Terry C. Day  
**TERRY C. DAY**, Commissioner

Jamie A. Anderson  
**JAMIE A. ANDERSON**, Commissioner

Attest:

Constance Swearingen  
**Constance Swearingen**, Clerk to the Board