

CASSIA COUNTY PUBLIC HEARING PROCESS

SECTION 1: APPLICABILITY.

This Resolution shall apply to all public hearings required by law to be conducted before the Cassia County Commissioners or any official board or commission of the County which is charged by law with the responsibility to conduct a public hearing. The most strict procedural standards set forth herein shall be applicable to site-specific land use or zoning requests. Lesser standards may be appropriate for legislative hearing (hearing concerning general ordinance amendment proposals). Opportunity for written comment may be substituted for oral proceedings when such procedure would not preclude a meaningful opportunity to participate.

SECTION 2: NOTICE OF HEARING.

Notice of hearing shall be given as required by law. If notice is determined to be defective, the presiding officer may undertake any measure deemed appropriate to correct such deficiency including extending the date of the hearing, allowing written comments after closure of an oral hearing, and/or obtaining waivers or conditional waivers from affected persons.

SECTION 3: CONDUCT OF HEARING.

A. All hearings shall be conducted in accordance with this Resolution at the direction of the presiding officer in circumstances where differences arise concerning the conduct of a public hearing. Prior to the hearing, an introduction describing the request and the procedure to be followed may be made by the Staff. The Hearing itself shall be conducted in the following manner:

1. Introduction by presiding officer and/or staff. All materials submitted by any participant in the hearing process for inclusion in the record of the case shall be deemed part of the record at the point of initiation of the hearing.
2. Presentation of issue by applicant or proponent. Time may be limited by pre-arrangement.
3. Staff presentation of information.
4. Testimony of all in support of application.
5. Testimony or questions by all who might be neutral concerning the application or who have questions which are neither approving nor opposing.
6. Testimony of all in opposition to application.
7. Rebuttal by Applicant.
8. Closure of hearing followed by deliberations.

B. GENERAL REQUIREMENTS

1. Public hearings shall be conducted according to orderly procedures as specified by the presiding officer, subject to the will of the governing board. Roberts Rules of Order, Revised, shall provide procedural guidance when disagreement occurs regarding procedural matters. No decision shall be invalidated or otherwise modified because of procedural steps deemed to be required by Roberts Rules of Order.

2. All procedures shall be directed to providing all participants a fair chance to be heard by an unbiased decision-making board.
3. Governing board members having a conflict of interest involving the subject matter of a hearing shall not participate in hearing testimony, discussion or deliberations related to the item in which they possess an interest. Said abstention shall be governed by the applicable provisions of this code, the Idaho code, and the member's personal perception of the situation. The decision to abstain from participation shall be the personal decision of the individual board member, and, whenever possible, should be made before proceedings begin. The minutes of any meeting shall reflect all such determinations made by governing board members.
4. The presiding officer shall have sole authority to recognize participants in the hearing process and to maintain order in its conduct.
5. Subject to governing board review, the presiding officer may establish time limits on presentations in the interest of fairness and to provide more people with a chance to participate. Said limitations may be established at the beginning of the hearing or may be invoked during the hearing when conditions warrant and the fairness of the hearing process would not be materially affected. Whenever possible, the potential for time limits on oral testimony should be included in the notice of public hearing.
6. Formal rules of evidence will not apply during the hearing, but the presiding officer may rule that certain testimony may be excluded or shortened because of its relevance to the subject of the hearing. Persons who fail to abide by the procedural ruling of the presiding officer may have their testimony cut short or terminated completely.
7. All inquiries regarding the presentation of an opposing party shall be directed to the presiding officer who shall decide the need for a response and seek one where necessary or appropriate.
8. At the close of the initial public hearing the governing board may take any of the following actions concerning the application before it:
 - a) Approve the application as presented.
 - b) Reject the application as presented.
 - c) Approve the application subject to specific conditions as permitted by the applicable substantive code sections.
 - d) Take the application or postpone a decision to allow fact finding by county staff, to receive answers to specific factual questions or further reflection. When a request is tabled or postponed, the final decision shall be made at a succeeding regularly scheduled meeting, or at a special meeting for which proper notice has been given.
 - e) Schedule a continuation of the public hearing to a specific time and place.

This provision shall apply to any visit to the site in question by the governing board.
9. Each person who testifies shall provide the recording secretary with his or her name and a true and accurate mailing address.
10. All information upon which a decision rests, including information held by governing

board members from their own experience and observations, shall be placed upon the record before the public hearing is closed.

11. Members of the governing board may question any participant in the hearing process concerning any representations made or questions raised in the course of the hearing or in written material submitted prior to the hearing. Responses which are susceptible to rebuttal may be rebutted if the answer addresses a contested issue.
12. The presiding officer may solicit a response to a question seeking a specific nonrebuttable objective fact from any participant without reopening the hearing for general testimony.
13. Any person may testify through a designated representative. The governing board may request proof of authorization from anyone purporting to speak for another. All writings submitted as testimony shall contain the name and address of the testifying party in legible form and shall include that person's signature.
14. All votes on final decisions or adoption of findings of fact and conclusions shall be recorded in the official minutes of the meeting. A roll call vote may be had when required by law.

C. APPLICANT'S RESPONSIBILITIES:

1. The applicant or a duly authorized representative shall be present at the public hearing to present the application to the governing board unless properly excused by the governing board. The governing board may cancel or postpone a hearing if the applicant is not present and prepared to go forward at the scheduled time of a hearing. Any costs incurred thereby may be charged to the applicant.
2. The applicant shall describe the application with reasonable detail to inform the governing board and those in attendance of the character of the application, the permission being sought or the change being sought, and the efforts undertaken to make the permission or change, if granted, acceptable to the community. The applicant's presentation shall address the criteria detailed in the Code or the Idaho Code for the type of permission sought.

D. PUBLIC PARTICIPANT'S RESPONSIBILITIES:

1. Public participants in the hearing process shall address the facts of the issue at hand and may state opinions as they relate to the criteria of the applicable code sections governing the request for permission made by the applicant. Irrelevant testimony or personal attacks may be excluded by the presiding officer.
2. Questions from public participants to the application, county staff, governing board members, or other public participants shall be directed to the presiding officer during the hearing.

E. COUNTY RESPONSIBILITIES:

1. The County shall make its best effort to provide meeting facilities adequate to accommodate all who wish to participate in the hearing process.

2. The County shall provide a recording secretary who shall produce minutes of the proceeding as required by law.
3. When required by law, the County shall maintain a transcribable verbatim record of all hearing proceedings for six months following the date of a final decision.

SECTION 4. POST -HEARING PROCEDURES. General Requirements:

- A. After the close of a public hearing, the only public communication with the governing board concerning the application before them shall be specific factual answers to questions raised at the hearing or during deliberations and requiring a subsequent reply. The governing board may communicate freely with county staff and county-provided legal counsel following the closure of the public hearing.
- B. Following each public hearing the governing board shall reach a decision regarding the permission or change sought in the subject application. The deliberations and final decision shall be conducted in an open meeting subject to the public scrutiny, and shall be made in a timely manner.
- C. Decisions in the application shall be accompanied by a written findings of fact and conclusions which shall set forth the reasons for the governing board's decision. Findings of fact and conclusions shall be adopted by specific motion of the governing board.
- D. The governing board may reach a decision in each application in any of the following ways:
 1. Decision may be reached on the day of the hearing subject to adoption of findings of fact and conclusions at a later date.
 2. A decision may be reached on the date of the hearing immediately followed by adoption of findings of fact and conclusions at the same meeting.
 3. A tentative decision may be reached on the date of the hearing subject to a development of suitable findings of fact and conclusions at a later date.
 4. A decision may be deferred to a later date at either the next regularly scheduled meeting of the governing board, at a subsequent regular meeting, or a properly scheduled special meeting.
- E. A draft reasoned decision may be developed by motion of the governing board immediately following the hearing in question; by a subcommittee of the governing board, or by delegation to county staff or legal counsel, based upon the record and discussions held, to be brought to the entire governing board for final action.
- F. Adoption of a written reasoned decision shall constitute a full decision for purposes of appeal.
- G. Reconsideration may be requested by any affected person within fourteen (14) days of final

action. Final action shall be the decision of the governing board upon adoption of the written reasoned decision.

SECTION 5. APPLICABILITY TO LEGISLATIVE HEARINGS.

Procedures established by this Resolution shall apply to quasi-judicial hearings which address the subject of individual legal rights. Legislative hearings which address consideration or adoption of general laws of the County may be conducted without adherence to the procedures set forth herein as directed by the County Commissioners or as otherwise required by law.

SECTION 6. SEVERABILITY.

If any clause, sentence, paragraph, section, or any other part or portion of this resolution, shall be declared or adjudged to be invalid for any reason, such invalidity shall not affect, invalidate or nullify the remainder of this Resolution.

SECTION 7. REPEAL OF CONFLICTING RESOLUTIONS.

All other resolutions of Cassia County that are in conflict with this Resolution are hereby repealed to the extent of such conflict.

Cassia County Resolution No. 2002-12-02, passed by Cassia County Board of County Commissioners on 1st day of December, 2002.