### Meeting and Hearing Conduct



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### **Presentation Overview**

- Role of land use decision-makers
- Legislative vs. quasi-judicial decisions
- Meeting and hearing conduct
- Recording decisions

# Context for Government Meetings

### Open Meetings

### Wisconsin's Open Meetings Law requires:

- meetings are open and accessible to the public, including disabled
- public is provided with advanced notice of meetings
- closed sessions are limited to specified circumstances and procedures



WISCONSIN OPEN MEETINGS LAW

A COMPLIANCE GUIDE

August 2010

DEPARTMENT OF JUSTICE ATTORNEY GENERAL J.B. VAN HOLLEN

### 1. Board meeting



3. Planning workshop



2. Public hearing



4. Site inspection



### Open Meetings



 Purpose test = discussion, information gathering or decisionmaking on a matter within the jurisdiction of the body



Numbers test = enough members of a body are present to determine the outcome of an action

- Generally, one-half of members
- Less than one-half if they can block decision

### Public Meeting



- Meeting designed to conduct public business
- Public has a right to attend and observe, <u>not</u> comment (unless specifically allowed)

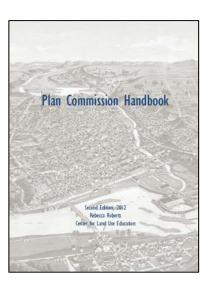
### **Public Hearing**



- Formal proceeding designed to gather public input
- Required when reviewing land use proposals (conditional use, variance) and adopting plans and ordinances

### Public participation



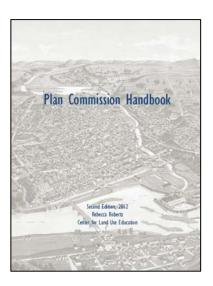


Plan Commission Handbook Chapt 4: Public Participation www.uwsp.edu/cnr-ap/clue/

- Meetings and hearings are not an ideal forum for communication
- Different techniques are required to engage the public
- Select technique based on purpose (education, dialogue, negotiation, etc.)

### Site inspections



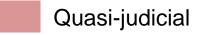


Plan Commission Handbook Ch 6: Ordinance Administration www.uwsp.edu/cnr-ap/clue/

- Group visits must be noticed and open to the public
- Request inspection authorization on application form
- Questions and discussion should be of technical nature
- Reserve all other discussion and deliberation for public hearing

### Who Does What?

Legislative









Plan Commission



Zoning Board of Adjustment / Appeals



Technical support

Permitted uses Conditional uses

Ordinance adoption

Amendments and rezones

Policy recommendations

Conditional uses

Conditional uses

Variances

Administrative appeals

### Types of Decisions



### Legislative

Exercise broad discretion in making policy. Public participation encouraged.

#### Example:

- Plans
- Ordinances
- Amendments
- Rezones

Responsibility of governing body, with recommendation of plan commission.



### **Quasi-Judicial**

Apply ordinance standards to specific land use proposal. Input limited to public hearing.

#### Example:

- Conditional Use
- Variance
- Administrative Appeal

Assigned to governing body, plan commission, or zoning board.



### Administrative

Apply clear and objective standards while handling routine ministerial duties.

#### Example:

Permitted Use

Handled by the zoning administrator or staff.

### Procedural Responsibilities

All local officials must comply with Wisconsin laws related to:

- Open Meetings (Wis. Stat. 19.81)
- Public Notice (Wis. Stat. 19.84)
- Conflicts of Interest (Wis. Stat. 19.59 and 946.13)



### **Quasi-Judicial**

decision-makers must follow rules of <u>procedural due</u> process:

- Notice
- Public hearing
- Findings of fact
- Record of decision
- Impartial decision-makers
- Opportunity to appeal



- Notice and agenda
- Meeting materials
- Logistics

### **Notice Requirements**



### **Public Meeting Notice**

- Paid, published notice not required
- Post at least 24 hours before meeting (2 hours for good cause)
- Post in 3 locations (<u>OR</u> government website and 1 physical location)

### **Notice Requirements**

#### NOTICE

NOTICE IS HEREBY GIVEN, that the Planning Commission of the City of Ortonville, Minnesota will hold a public hearing at the City Offices at 315 Madison Avenue in the City of Ortonville, Minnesota at 3:00 P.M. on the 15th day of October, 2012, for the purpose of discussion of the potential amendment to Section 150.004 Annexations and Detachments.

The current ordinance provisions state, "In the event of annexation of new areas to the city, the areas shall be considered to be in the Agriculture-Open Space District until otherwise classified." New language would state "the new areas once annexed shall be classified as being in the same zoning district of the contiguous land already within the city boundaries, unless otherwise classified in the annexation ordinance."

### **Public Hearing Notice**

- Comprehensive plan adoption/amendment
  - 1 newspaper publication at least 30 days prior
- Zoning ordinance adoption/amendment
  - 2 consecutive newspaper publications in 2 weeks prior
- Other decisions as specified by ordinance

### **Public Notice**

(Wis. Stat. 19.84)

- Time
- Date
- Place
- Subject matter

Provide sufficient detail to reasonably inform the public and news media of what is going to happen



#### PLAN COMMISSION AGENDA

April 19, 2021 4:30 PM

#### Meeting Room A

160 South Macy Street Fond du Lac, Wisconsin

City-County Government Center

#### OPENING CEREMONIES

- A. Attendance
- B. Declaration Quorum Present

#### II. APPROVAL OF MINUTES

February 15, 2021

#### III. PUBLIC HEARINGS

#### A. ZONING UPON ANNEXATION

Effect: Zone annexed property R-1 (Single Family

Residential)

Location: W5149 Rienzi Road

Initiator: Jeffrey Berenz on behalf of REVEST LLC

#### B. ZONING CODE AMENDMENT

Effect: Revisions to Municipal Code Chapter 720

Initiator: Principal Planner

#### IV. PETITIONS AND COMMUNICATIONS

#### A. 2015-2019 RECREATION PLAN

Effect: Recommend Approval of Amended Plan to

City Council

Initiator: Community Development Director

#### V. REPORTS OF OFFICERS

#### VI. AJOURN

### Type in chat box

### Is this a good agenda?

- Time
- Date
- Place
- Subject matter

PUBLISH: February 14 & 21, 2020

#### NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Planning Commission of the City of Stevens Point, Portage County, Wisconsin, will hold a Public Hearing on March 2, 2020 at 6:00 PM at 933 Michigan Avenue (Police Department – Room 122), Stevens Point, WI 54481 to hear the following:

- Public hearing and action on a request from Lucas Buick for a conditional use permit to operate
  a Tourist Rooming House where the owner does not reside on the premise at 717 Ridge Road
  (Parcel ID 281240827301906). This property is zoned "R-2" Single Family Residence District and
  is described as LOT 5 BLK 1 JANICK SUB 835126, City of Stevens Point, Portage County,
  Wisconsin.
- Public hearing and action on a request from the Stevens Point Area Public School District for a
  conditional use permit to construct a vestibule entrance on the northeast side of PJ Jacobs
  Junior High School at 2400 Main Street (Parcel ID 281240833200106). This property is zoned "R5" Multiple Family 2 Residence District and is described as PT NENW COM@ NE/C MAIN&MICH
  N250'; E7';N173'; E393';S423'TO NL MAIN;W400' POB;EX HWY 566759 S33 T24R8 3.85A
  452/455;649/901 767817UTIL;79877UTIL;818652 840472, City of Stevens Point, Portage County,
  Wisconsin.

All interested parties are invited to attend.

## Setting the Stage for Successful Meetings

- The room sets the tone for the meeting
- Arrange seating and technology to accommodate meeting purpose and expected participants
- Be flexible have a backup plan!





### Meeting Materials

- Provide print or electronic copy of important info to public
- Committee should review before meeting

#### Materials may include:

- Application materials
- Maps, photos, exhibits
- Ordinance standards
- Staff recommendation
- Decision form



- Opening the meeting
- Presenting information
- Managing public input

### **Order of Events**

#### Preliminary matters at meeting.

- A. Distribute and collect hearing appearance slips. (see example on page 22). [chair]
- B. Call the meeting to order. [chair]
- C. Take roll and confirm that a quorum is present. [secretary]
- Confirm compliance with open meetings law and public notice requirements.
   [commission]
- E. Read the agenda and amend as necessary (reorder hearings). [chair and commission]
- F. Inform the public in attendance of hearing procedures (see script on page 23). [chair]

#### Public hearing.

- A. Open the first public hearing. [chair]
- B. Read petition or application. [staff]
- C. Report on any site inspection. [secretary or staff]
- D. Request a statement by the applicant. [chair with questions by commission]
- E. Read the staff report. [staff with questions by commission]
- F. Report on related correspondence. [secretary]
- G. Disclose any ex parte communication. [commission]
- H. Request statements of witnesses (pro/con/information). [chair with questions by commission]
- Request a response by the applicant (or after each witness). [chair with questions by commission]
- J. Request a response by staff. [staff with questions by commission]
- K. Ask any final questions. [commission]
- L. Close the record and the hearing. [chair]

#### Deliberation and decision or recommendation.



### Sign in Sheet

- Document participation
- Record those who wish to provide testimony
- Gather contact information to distribute materials or report back after meeting

### Introductions

- Describe authority and purpose of meeting
- Establish ground rules
- Review agenda and handouts

 Document attendance, quorum, and compliance with open meetings law



### Sample Ground Rules

- 1. Treat all members with courtesy and respect.
- 2. Be respectful of other viewpoints, even if you disagree.
- 3. Focus on interests rather than positions. Interests help get to solutions rather than focusing on problems.

**Position:** what should be done

- I support mining
- I don't support mining
- Protect 30% of development site

**Interest:** underlying motivation

- This community needs jobs
- I want places to hunt and fish
- Animals need contiguous habitat

#### Announcement of Hearing Proceedings

#### Role of the Plan Commission

The plan commission makes recommendations to the governing body on the adoption and amendment of community plans, official maps, ordinances and other matters. When considering a specific development proposal such as a conditional use, variance or other approval, the plan commission functions like a court. In this situation, the plan commission does not have authority to amend or repeal any provision of an ordinance. Its job is to apply ordinances and appropriate legal standards to the facts of each case. If site plan approval is required in addition to a zoning map or text amendment, that approval is a separate decision that will be considered if approved by the governing body.

#### Purpose of Public Hearing

The purpose of a public hearing is to give a full and fair hearing to any person affected by the plan, ordinance or other matter under consideration prior to a final governmental decision. Proposals can be changed before a final decision is made on the matter. Hearings are open to the public and prior notice of hearings is provided. A taped recording is being made of the proceedings (or a reporter is recording the proceedings).

#### Order of Events for Hearings

Each hearing will be opened with a summary of the petition for ordinance or plan amendment or a reading of the application or request. Time will then be provided for questions and answers to clarify the proposal. The site inspection report (if any) will then be read. The applicant/appellant's statement and the staff report (if any) will each be followed by related commission questions. Witness testimony (from those who have submitted appearance slips and alternating among those in favor, those opposed, and those appearing to provide information) are next, followed by related commission questions and responses from the applicant and staff.

### **Background Information**

#### Memo

To: Plan Commission, Village Board

Fr: Trevor Fuller, Planning and Zoning Administrator

Re: ACTION RE: CONDITIONAL USE REQUEST FROM SKB TERRACE LLC TO ALLOW FOR TWO 9-UNIT APARTMENT BUILDINGS AT 3241-3245 RIVERSIDE DRIVE

Date: 03 January 2020

A Conditional Use Permit (CUP) has been requested by SKB Terrace LLC to allow for apartment buildings on parcel AL-125-8, located at 3241-3245 Riverside Drive. The parcel is currently zoned Commercial District, which allows for multi-family residential use as a conditional use.

....

Included is an exterior picture, an aerial photograph of the existing property, and a conceptual site plan. The property owner intends to construct two, nine-unit apartment buildings on the vacant lot. The residential development cannot proceed without being granted a conditional use permit.

Any site improvements (i.e. building plans) and future additions will have to go through the Site Plan and Design Review process and be consistent with the applicable zoning requirements for "Commercial District" and "High-Density District."





- Staff analysis
- Applicant presentation

#### **Property Information**

- 0.42 acre site
  - Zoned Office Commercial (OC)
  - Existing 3,253 sq. ft. structure
  - Previous use = Office
  - Surrounded by office and institutional type uses.

### **Public Comment**

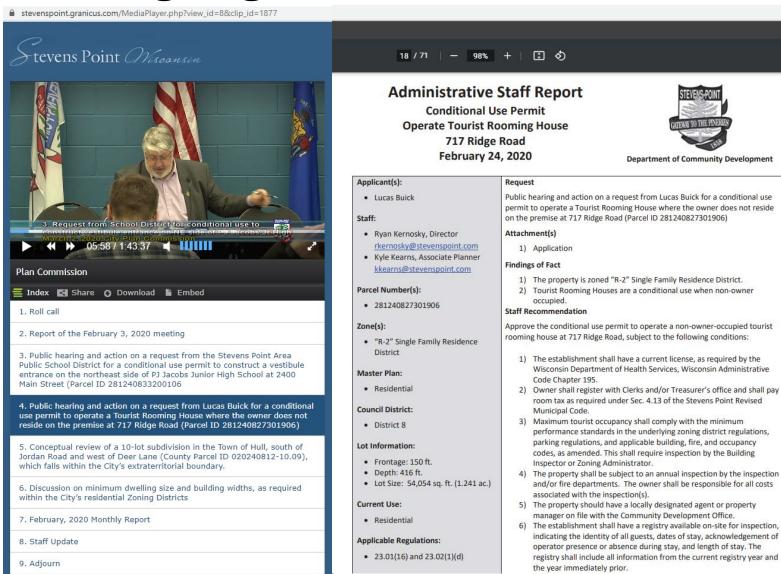
- Register and qualify those offering testimony
- Refer back to agenda, time limits, ground rules, and decision standards as needed
- Experienced chair or facilitator is helpful



### **Public Comment Structure**

- 1. One person speaks at a time after being called on by the chair or facilitator.
- 2. Only comments pertaining to topics on the floor shall be considered.
- 3. Chair may impose a time limit on individual comments.
- 4. Avoid repetition of comments.
- 5. Personal attacks, abusive testimony, rumors and gossip will be ruled out of order.

### Meeting Vignette



https://stevenspoint.granicus.com/MediaPlayer.php?view\_id=8&clip\_id=1877



- Fact finding
- Credible information
- Legally defensible decisions

### **Decision Forms**

Decision				
If an applicant for a conditional use permit meets, or agrees to meet, all of the requirements found in the zoning ordinance and all conditions imposed on the permit, the local government is required to grant the permit.				
Based on the above findings of fact, conclusions of law, and the record in this matter, the permit is:				
☐ Approved, with the conditions stated above.				
☐ Denied, for the following reasons:				
Signature of local government Date				

### Findings of Fact

I. Findings of Fact	Describe proposal
Name, address and phone number of applicant:	and surrounding conditions
The applicant requests:  Preliminary / final plat approval Conditional use / special exception Zoning map / text amendment Comprehensive plan map / text amendment Other:  Brief description of property and surrounding conditions:	LAKE OF NAVIGABLE STREAM  G G G G G G G G G G G G G G G G G G G
Brief description of proposal: Attach or reference maps, photos, and other materials	SEPTIC SHED ON SLAS HAVY 42 IS SOME ROAD RIGHT OF WAY LINE

### **Conclusions of Law**

II. Conclusions of Law				
The proposed use conforms with the purposes of the zoning district in List standar				
☐ The proposed use will not be detrimental to immediate vicinity or to the community as a who				
☐ The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding area.				
☐ The proposed use will be adequately served by essential public facilities and services, including highways, streets, water, sewage, drainage, schools and emergency services.				
□ Adequate measures have or will be taken to prevent or control noise, odors, fumes, dust, vibrations, light, and other unusual activities or disturbances.				
□ Adequate measures have or will be taken to spaces to serve the proposed use.	provide sufficient off	Analyze and document how the		
Describe reasons why proposal does or does n	ot meet each standard: _	applicant meets (or		
		agrees to meet) the		

### Conclusions of Law

#### II. Conclusions of Law

The applicant (does/does not) meet all of the following conditional use standards:

of the cour	posed use will not be detrimental to the health, general welfare, safet, nty. True False	List standards four in your ordinance
B. The propof the imm	cons:- consed use will not be detrimental to the health, general welfare, safety a nediate area where the use would be located. True False sons:	Analyze and document how th applicant meets (doesn't meet) the standards
from noise	oosed use will not result in hazardous, harmful, noxious, offensive or nuis , dust, smoke, or odor and other factors. True False	sance effects resulting

### Order and Determination

#### III. Recommendation or Decision

	L					
On the basis of the above findings of fact, conclusions of law and the record in this matter, the plan commission recommends / finds that the proposed development is:						
■ Approved, subject to the following conditions	S.					
☐ Tabled for further consideration.						
■ Denied for the following reasons.						
Specify conditions of approval, additional information requested, or reasons for denial:						
		Decision and conditions of approval				
SignedChairperson	_ AttestS	ecretary				
Dated:	_					

#### Credibility of Evidence

- Local government has discretion in terms of how much weight it gives to evidence
- Fact or opinion/speculation
- Source of facts
  - Professional in relevant field
  - Reviewed by professionals
- Documented (photos, study, verified data)

#### Credibility of Evidence

- The burden of proof is on the applicant seeking a conditional use or variance to show that they have met the ordinance standards
- Courts will decide if a reasonable person could reach the same conclusion

#### Legally Defensible Decisions

#### Courts defer to local decision makers when these tests are met:

<b>Authority</b>	Are you empowered by statute or ordinance to act on the matter?
Proper procedures	Did you follow proper procedures? (notice, open meeting, public hearing)
Proper standards	Did you apply the proper standards? (ordinance, state statute, case law)
Rational basis	Were you unbiased? Could a <u>reasonable</u> person reach the same conclusion?
Evidence	Do facts in the record support your decision?

# Evaluating and Improving Your Meetings

#### Debrief

Evaluate your meeting (timing, location, venue, meeting type, agenda, ground rules, activities, communication strategy, facilitation, outcomes, etc.)

- 1. What worked well?
  - For specific stakeholders/groups; to achieve specific objectives
- 2. What could have been **improved**?
  - Barriers to participation; unanticipated challenges
- 3. What **lessons** will you bring to the planning, facilitation and conduct of future meetings?

#### Improving Meetings

- Be open and transparent
- Focus on common ground interests, not positions
- Assign positive obligations "what can you live with?"
- Build personal connections stories, personal impacts
- Watch a skilled facilitator at work; then practice
- Seek outside help when needed

### Counter difficult participants with contrasting communication style

- When they talk faster, you speak slower
- When they get louder and angrier, you get more deliberate and agreeable

Attacker: Angry, but not necessarily about the actual topic; counter with deliberate, agreeable tone; identify 1 point where there is wider agreement and use that to redirect

 "I appreciate your passion on this topic. While we may not all agree on the cause of the problem, I think we can agree that a better solution is needed. I do want to remind everyone in the room about the ground rules we all signed on to. Let's all work hard to be agreeable even when we disagree."

**Arguer**: Loud and authoritative, not necessarily informed; don't argue back, don't pose questions or comments that feed their momentum

 "Thank you for that valuable perspective. I'll make sure it's included in our meeting record and report. Are there other points that folks would like to address?"

**Dominator**: Tries to monopolize the discussion and intimidate others; be proactive to preempt this behavior

 "I know you have strong feelings about this. Let's start by taking a minute to hear your take on the situation."

**Doubter**: Skeptical, pessimistic; empathize while stressing optimism

 "I totally get why you feel that way. But with all the knowledge and experience in this room, I think you might be surprised at what we can accomplish together."

**Know-it-all**: Weaponizes knowledge and experience, whether relevant or not; acknowledge, while emphasizing that other perspectives are also valid

- "Your background on this is really valuable. To be fair, though, there are lots of folks with different experiences whose ideas need to be considered as well."
- "I really admire your expertise. I'm not totally sure how that relates to this particular agenda item."

**Distractor**: Vocalizes stream-of-thought remarks regardless of relevance; use agenda to redirect, and offer to follow up later

- "Thank you for sharing that important point. I'm not sure today's agenda will allow us time to really dig in on this. Let's cover it in detail in a follow up conversation, e-mail, or future meeting."
- "Is this side conversation something that we might be able to pursue after our meeting is finished?

**Single-issuer**: Returns to one point regardless of relevance; allow 1-2 opportunities and then use the agenda to keep on track

 "Thank you for reminding us of that important consideration. Since we have moved to the next agenda item, let's follow up on this after, when we have more time to really dig in."

**Gossiper**: Relies on hearsay and innuendo; invite others to counter

 "That's interesting. I hadn't heard that before. Can anyone else confirm or disconfirm?"

**Talker**: Looking to hear their own voice; thank, and redirect without comment

"Thank you. Who else has a potential answer to this question?"

"The most effective technique for disarming the opposition is to stand at the door as people come in, smile at friend and foe alike, greet them by name (if you know it), and extend an open hand.

The most effective way to **feed** the opposition's paranoia and **destructive tendencies** and ensure that antagonists will try to obstruct the process is to **turn away** when you seem them coming or be **too busy with housekeeping** details to give them respect."

# Recommended Resources

#### **Upcoming Webinars**

Public Participation in Land Use Decision-Making

June 15, 10-11:30 am





- Grants and Budgeting
- Natural Flood Management
- Public Health
- Solar Energy
- 21<sup>st</sup> Century Gov Workforce
- Youth in Government
- Scenario Planning
- Food Systems Planning
- Census Data
- Climate Resilience
- Farmland Protection

#### **Recorded Webinars**

- Role of the Plan Commission
- Role of the Zoning Board
- Zoning Fundamentals
- Refreshing Your Zoning Ordinance
- New Rules for Conditional Uses
- Variances
- Shoreland Zoning
- Subdivision Regulations
- Meeting and Hearing Conduct





www.uwsp.edu/cnr-ap/clue/



#### Plan Commission Training

Plan Commission Training is designed to orient new members and interested citizens to the roles and responsibilities of the plan commission and to serve as a refresher for veteran members of the commission.



#### Zoning Board Training

Zoning Board Training is designed to provide an introduction for new zoning board members and staff to zoning board roles, procedures and standards

https://fyi.extension.wisc.edu/landusetraining/

## Thank You!

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