

# Public Hearings: How to Plan and Conduct Them



Twenty-first Annual Convention  
American National Live  
Stock Association  
Held at Lake City, January 14, 15, 16, 1918

Wheeler

So . . . What's your  
commission's most important  
advocacy tool?



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commission's most important  
advocacy tool?





# Role of staff



# Make the commission look good!





- Prepare a notebook [e or hard] with ordinance, guidelines, procedural rules.
- Provide minutes for the past year.
- Develop a checklist of ordinance requirements
- Hold an annual retreat (the good, the bad, and the ugly)



Provide a  
recommended  
motion referencing  
criteria.

Give the commission  
more than one  
motion for  
complicated items.





# Public hearing process should be in writing

FEBRUARY 1933						
SALESMAN	DIV.	TOTAL POINTS	POINTS NEW ACCOUNTS	POINTS PERSONAL ORDERS	POINTS FOR SHIPMENTS	NEW ACCOUNTS
1. MC LEAN	CHI.	7822	328	848	8552	3
2. THOMPSON	S. F.	8422	288	1848	4127	1
3. LYNCH	DEM.	8248	548	1572	4127	4
4. SMITH	K. C.	8224	2376	1943	1803	11
5. HASTAIN	K. C.	8197	88	2282	2718	1
6. SIMS	CHI.	8120	2850	1488	1881	13
7. TRAVIS	DEM.	8100	188	972	2071	4
8. HASTINGS	CHI.	8087	758	882	2448	3
9. FUNK	K. C.	8017	1488	1388	2683	10
10. McDONALD	-	8221	848	872	2901	4
11. NOVICH	DAL.	8288	1072	1423	2793	11
12. HOLKE	CHI.	8247	188	1270	2888	1
13. STARRETT	DEM.	8182	1040	1104	2036	8
14. WELLS	K. C.	8122	1150	1120	2852	7
15. LAMPE	DEM.	8100	1840	1088	2384	18
16. STIVERS	K. C.	8044	1834	1815	1285	11
17. BOOD	-	8060	1088	847	4880	10
18. NEWMAN	S. F.	8780	1388	1187	2858	5
19. NORWOOD	DAL.	8857	0	288	4888	0
20. BROWN	K. C.	8832	814	1800	2818	8
21. BRADY	DEM.	8442	244	1013	3188	3
22. CHAPMAN	DAL.	8388	448	928	3071	8
23. HUTCHINSON	-	8317	884	788	2887	7
24. WALLS	CHI.	8800	804	1178	2427	3
25. HEARST	K. C.	8110	728	1282	2088	8
26. CURRIE	DEM.	8088	1880	887	2088	10
27. ZOOK	-	8017	172	708	3138	0
28. ROCHE	CHI.	2888	470	1881	2124	4
29. WEST	-	3842	482	818	2874	14
30. HOVEY	-	3832	840	808	2288	3
31. MCKERNAN	-	3828	402	1001	2422	4
32. SALMAY	S. F.	3780	104	704	2888	8
33. CONDE	K. C.	3743	884	827	2022	7
34. YOUNGQUIST	DEM.	3718	882	782	2088	11
35. DUDDY	CHI.	3710	288	878	2847	3
36. PEARCE	DAL.	3427	880	410	2887	8
37. SKATTIE	DEM.	3426	822	888	1848	8
38. WILKINS	-	3477	424	888	2184	4
39. HOWES	-	3455	320	1174	1981	5
40. FRAZIER	S. F.	3388	288	828	2128	3
41. THOMPSON	DEM.	3288	80	328	2840	1
42. TYLER	DAL.	3108	888	1297	1488	8
43. REHRHARD	K. C.	3036	1348	1432	258	7
44. DODGE	CHI.	3010	0	852	2158	0
45. HOFFMAN	DEM.	3008	488	800	2022	8
46. MOSS	CHI.	2888	304	887	2010	2
47. LOBE	S. F.	2878	288	782	1808	4
48. LUFKIN	-	2813	180	712	2081	3
49. NITE	K. C.	2808	714	1080	1131	3
50. ARMSTRONG	DAL.	2788	804	482	1782	8

- Post the order prominently in the hearing room for the public.
- Remember many applicants and members of the public are not acquainted with the process.

# Remember to KISS



**Keep**

**It**

**Simple**

**Stupid**

# Public Hearing Process

Conversativetown Historic Preservation Commission

October 11, 2013

- 1. Commission members announce ex parte contacts and conflicts of interest
- 2. Staff presentation
- 3. Questions of staff
- 4. Applicant presentation
- 5. Questions of applicant
- 6. Public hearing opened
- 7. Public comment
- 8. Public hearing closed
- 9. Commission deliberation and motion

# Role of the commission





# Procedural Due Process

“The history of liberty has largely been the history of the observance of procedural safeguards.”

Justice Felix Frankfurter  
*McNabb v. United States*





# What Procedural Process is Due?

Government Proceedings Must Be:

- orderly
- fundamentally fair
- judicious
- impartial



# Adequate Notice

- Requirements found in state enabling laws and in local zoning, subdivision and preservation ordinances
- Notice to property owner/applicant, neighbors, general public



# Robert's Rules for Dummies

- From [Robert's Rules For Dummies, 2nd Edition](#) by C. Alan Jennings, PRP
- Robert's Rules provides rules and procedures that allow a deliberative assembly to make its decisions efficiently, but with all due regard for the rights of the minority. Following the rules ensures more a fair and more achievable outcome without wasting time, but remembering all the details of parliamentary procedure can be a

Attending the meeting in body only (the non-participating member)



Coming to the meeting unprepared to discuss the application.



Participating in side conversations.





Asking questions and finding facts about areas that are outside the commission's purview.

- “How much additional traffic will this proposed dormer addition generate?”



Attempting to design by committee.



Using language that makes it seem that the decision is based upon personal opinions rather than the guidelines.

“I think the polka dot proposal is really ugly. I really really don’t like it. I feel it could be better if the polka dots were little squares.”

Robert McNamara, Landmark Board Member



“Like” “Feel” “Think”

. . . are not found in your ordinance or  
guidelines criteria!



THE BIG “C”

# The Big “C”

Motions must be based on CRITERIA.





# Close the public hearing

- No additional input unless a commission member requests clarification.
- How many witnesses should be permitted to address a point of clarification?
- Chair should restate the purpose of the hearing, the process to be followed, and how the commission will reach a decision on the proposal.

# Ex Parte Comments

- Outside the public hearing process
- With a party involved or potentially involved in a matter before your commission
- Share *ex-parte* contacts before one votes
- Urge people to contact staff



# Colorado Sunshine Law

## CRS 24-6-402

- Applies to boards and commissions of political subdivisions of the state.
- Two or more members of the body “conducting business”
- In person, by telephone, electronically or “other means of communication”
- Full and timely notice required
- Minutes required

# Conflicts of interest



# Conflicts of interest

Follow local government ordinances . . .

. . . as well as refer to  
state statutes for  
guidance.



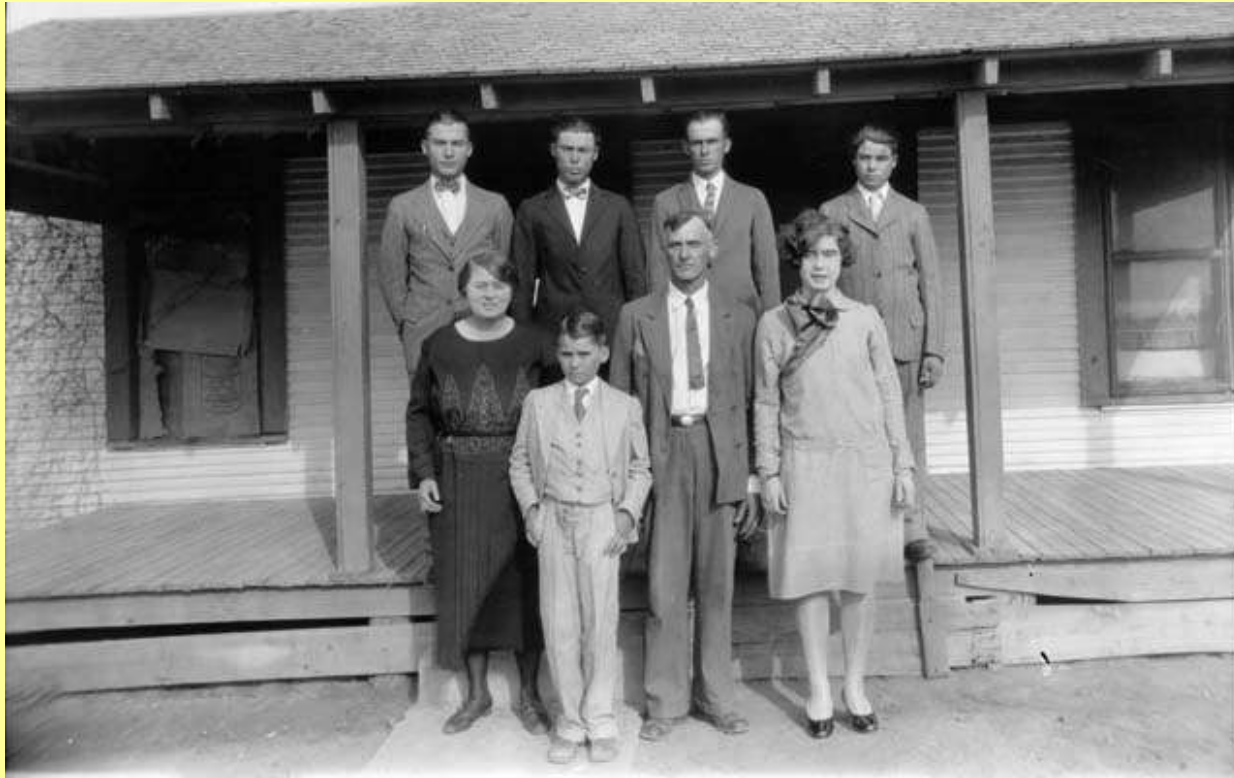
# Conflicts of interest



- What relationships constitute an automatic conflict?
- If not automatic, usually left up to the individual commission member.



# Conflicts of interest



- Family relationships often need additional analysis.

# Conflicts of interest



- What if the architect on the commission is also the only architect in town who takes preservation projects?

# Conflicts of interest

What about  
accepting gifts?



# Conflicts of interest



- Be mindful of a quorum.

# Conflicts of interest



- Sometimes, the question is not “Can I act impartially?” but rather “Does the **public believe** that I can act impartially?”



# Conflicts of interest

Use the "smell test"

- Put yourself in the place of the public.



# Conflicts of interest

- Harder to recuse oneself in smaller communities where a commission member knows everyone.





# Conflicts of interest

- **Perceived** conflicts can be just as damaging as real ones.

“This seems fishy to me!”



# Colorado Conflicts Law

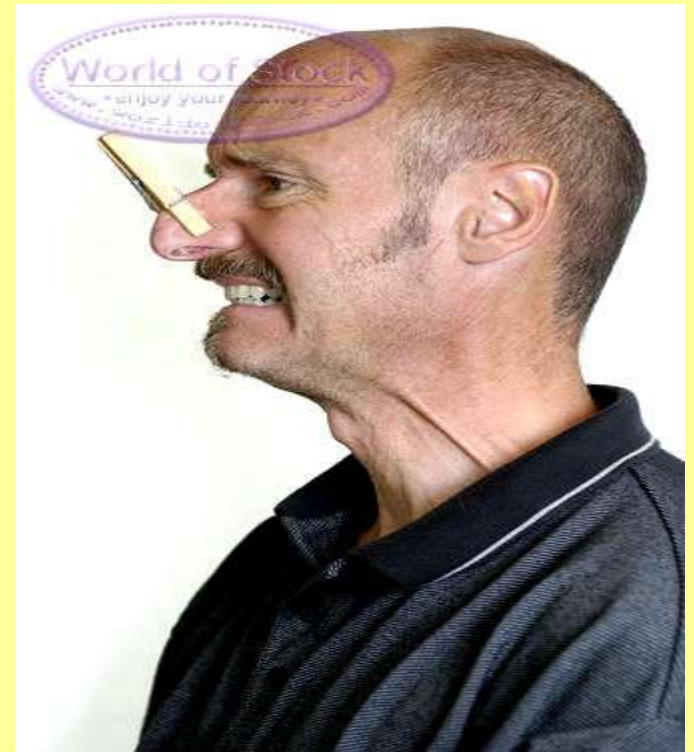
## CRS 24-18-109

A local government official shall not perform an official act that directly benefits her financially.

It is a breach of a fiduciary duty and the public trust (a) to use local government facilities and equipment for private purposes or (b) to accept or receive a benefit as an indirect consequence of transacting local government business.

# CLGs must follow NPS regulations

Which includes both “real” and “apparent:”  
conflicts, i.e., the “smell test.”



# How about a little Motion Practice?



AI-0175, City of Greeley Museums, Permanent Collection, Canfield Trust building, between 1910 and 1922, photographer unknown











**Front Facade** (view looking east from Corona St)



**Front Facade - Dormer and Porch (view looking northeast)**



**Front Facade** (view looking east from ridge)





**North Facade** (view looking southeast from ridge)