



Municipal Guidance on Administration and Fairness

Public Hearings

What Is a Public Hearing?

A public hearing is a forum in which the public can share their views and opinions on matters that affect them. There are times when a municipality must hold a formal public hearing as part of a decision-making process.

In addition to requirements set out in law, a municipality may also hold a public hearing for any other matter it chooses.

Public hearings can give decision makers valuable information and contribute to making fair and transparent decisions.

Public hearing procedures guide the process to ensure a hearing is conducted fairly. These procedures are usually set out in the municipality's bylaw.

Types of Public Hearings

Public hearings generally fall into two types. Understanding the context of a public hearing is important and helps ensure each hearing is conducted fairly.

Some public hearings occur when council is seeking input from citizens on:

- Financial plans
- Budgets matters
- Local improvements
- Development plans, etc.

Public hearings of this type tend to be for matters that affect a wider number of people or even the entire municipality. At these types of public hearings, council might state its position on a certain matter or present its plans so it can obtain public input which can help council make an informed decision.

A different kind of public hearing happens when council is sitting in an administrative tribunal-like capacity to hear opposing positions of parties on a specific matter, such as an application to vary zoning or for a conditional use application.

These situations involve the legal rights of specific parties. In situations such as these, council will be making an impartial decision based on the information presented by the parties and witnesses at the hearing and will not state a position but rather render a decision at the end of the hearing process.

Under The Municipal Act, public hearings must be held for:

- Presentation of the annual financial plan of the municipality (Subsection 162(2))
- Revisions to the operating budget that increases transfers from surplus and reserves, increases tax revenue, or increases estimates in the capital budget (Subsection 162(3))
- Intention to spend from a special purpose reserve for a different purpose (Subsection 168(2))
- Proposal to close a municipal road (Sec. 290(2))
- Proposal for local improvements/special services (Subsection 318(1))

Under The Planning Act, public hearings are required for:

- A proposal to adopt or amend a development plan (Subsection 46(1))
- A proposal to adopt or amend a zoning by-law (Subsection 74(1))
- An application to vary requirements of a zoning by-law (Sec. 96)
- An application for conditional use (Section 105)
- An application to subdivide property which results in the creation of a new public road (Subsection 125(2)) a new public road (Subsection 125(2))

Tips for Conducting Fair Public Hearings

Before the hearing

Give notice

Both The Municipal Act and The Planning Act specify when and how notice about a public hearing must be given. For example, The Municipal Act specifies that notice for a public hearing regarding a local improvement plan must be sent to each potential taxpayer 21 days in advance of the hearing. The Planning Act requires notice to the applicant and any affected parties be given 14 days in advance of a hearing related to a variance, conditional use, application for subdivision, and other situations.

Advance notice helps ensure procedural fairness by giving affected persons sufficient information and time to understand the matter being considered, prepare their submissions,

gather relevant information, and decide whether and how they wish to participate in the hearing.

Tell people about the purpose of the hearing

Sometimes there are specific requirements for the content of the notice. For example, section 318 of The Municipal Act addresses both the time required for notice of a local improvement plan, and the content of the notice. Subsection 315(1) of the act sets out a detailed list of what must be included in a local improvement plan and that information that must be summarized in the notice. Citizens need to fully understand the proposal being considered by council before they can ask meaningful questions and provide informed comments.

Understand council's jurisdiction

Understanding council's jurisdiction goes beyond the question of whether council has the authority to act or make a decision. The provincial law or municipal bylaw giving council the authority to act or make a decision may also provide details on what information and criteria must be considered and applied when making a decision. For example, subsection 97(1) of The Planning Act sets out the criteria to be applied when deciding to vary the provisions of a zoning bylaw. It's important to have these criteria available when making a decision, to avoid making a decision based on wrong criteria.

At the hearing

Set the tone

- Introduce the panel
- Set out the jurisdiction to conduct the hearing (statute or bylaw)
- State the purpose of the hearing with reference to the decision that will be made

e.g. "We are here this evening to consider an application for..."

- State the criteria that council will consider when making the decision e.g. "In making this decision, The Planning Act requires us to consider..." Stating the criteria can help focus applicants and presenters and inform applicants of the test they must meet.

Outline the rules of conduct

This allows council to inform applicants, objectors and other presenters about how the hearing will unfold and it can help to maintain control over the hearing process. Rules of conduct could include:

- The order of speakers
- Whether council will answer questions
- Whether questions can be directed at presenters
- If there are time limits for presentations
- Time frame for making the decision

After the hearing

Explain the decision

Obtaining information during a public hearing is an important part of the fair decision-making process. Use that information to explain a decision. Providing reasons for council's decision can help to address concerns that have been raised or to let people know that they have been heard.

Put the decision in writing

Written decisions allow council to:

- Communicate with the public
- Explain the reasons for a decision
- Prevent unnecessary complaints

More Information to Consider

Listen to the people who will be affected by the decision

Council may have gathered information ahead of time about the costs or benefits of a proposal or received information as part of an application package. A public hearing is an opportunity for council/decision-makers to listen, ask questions and hear the perspective of people who will be affected by a decision.

Separate fact from feeling

Understand that two kinds of information are being presented – the actual impact on the person (fact) and how a person feels about the issue (feeling). Separating factual information from feelings can help to move forward.

Although how people feel about a decision is important, feelings cannot always be the basis for a decision. If the facts support a decision different from the majority view, council must be able to make and defend its decision. To be able to articulate the difference between fact and feeling is critical to making a decision that will stand the test of scrutiny.

Handle new information fairly

If council has already conducted a public hearing and then concluded it needs additional information, the additional information should be shared with the affected parties before making a decision. If there is information adverse to one party's interest, they should have a chance to respond. If the information changes things in a material way, council is really considering a different issue. People should have the chance to speak to that issue.

Virtual Hearings

Public hearings may be conducted in person, virtually, or through a combination of both, where authorized by legislation. Regardless of the format, municipalities must ensure affected persons and interested members of the public are able to participate in the hearing to the extent authorized by the law.

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