



photo by Greg Yaskot

# ADVOCACY WORKSHOP

## *Citizen Involvement in Local Decision-Making*

A unique opportunity for Teton Valley citizens to develop a relationship with local government officials and learn how to effectively voice their opinions during public hearings. This is a non-issue-specific, non-partisan evening dedicated to learning and dialoguing about citizens' rights and responsibilities in local government.



# Valley Advocates for Responsible Development

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## *Citizen Involvement in Local Decision-Making*

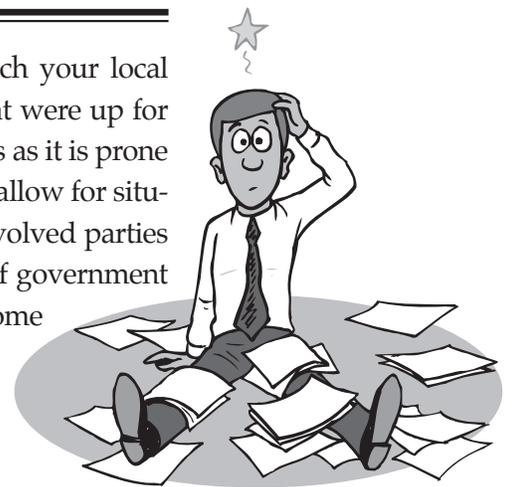
One of the highlights of living in a small community is the ability to get involved and make a real difference in the community. By taking the time to submit a letter or show up at a public hearing, it is easy to make your voice heard during the public debate process, a critical component of the democratic process. The course of debate, dissent, and compromise which some point to as a weakness is, in fact, democracy's underlying strength. Outside of voting, many citizens are unaware of how to get involved in the democratic process and government decision making. This handbook, in conjunction with the Valley Advocates for Responsible Development (VARD) Advocacy Workshop, will help you effectively communicate with your decision-makers and influence the decision-making process.

## INTRODUCTION

### Democratic Government and a System of Checks and Balances

*There was a time* in Teton County when you could approach your local officials on the street and talk to them one-on-one about issues that were up for public debate. However, such a system can be fraught with conflicts as it is prone to corruption and exclusion when misused by the dishonest. It can allow for situations where deals are made and decisions concluded before all involved parties can participate. In Idaho, the laws regarding the communication of government officials with the citizens they represent and the applicants that come before them for decisions were amended in 1980 to ensure that all citizens have equal and fair access in the decision-making process. Now, though there is a bit more procedure, everyone can have their voice heard and counted in the decision-making process.

Certainly, no one has ever accused democracies of being particularly efficient in their deliberations; democratic decision-making in a large, complex society can be a messy, grueling, and time-consuming process. One of the most important contributions to democratic practice has been the development of a system of checks and balances to ensure that political power is dispersed and decentralized. It is a system founded on the deeply held belief that government is best when its potential for abuse is curbed and when it is held as close to the people as possible.



## Understanding Due Process

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*It is necessary* to understand the basics of due process to appreciate why quasi-judicial procedure, such as a public hearing, exists and how it protects individual rights. The Fifth Amendment to the Federal Constitution states: “No person shall be...deprived of life, liberty, or property, without due process of law.” The Fourteenth Amendment to the Federal Constitution makes the requirement for due process binding upon state governments: “...nor shall any state deprive any person of life, liberty or property, without due process of law...” Mirroring the clauses in the Federal Constitution, Article I, Section 13 of the Idaho Constitution states, “no person shall be...deprived life, liberty or property without due process of law.”

“Due process of law” means that government must provide (1) notice and (2) a hearing before a disinterested tribunal in situations where individuals may be deprived of life, liberty, or property. If you are a land owner whose land is the subject of a land use decision, or a neighboring land owner whose property will be affected by the decision, due process requires that you receive notice of the land-use proceeding, and a hearing before the governing body making the decision. Even if you are not a neighbor to the property in question, but a concerned member of the community, you have certain rights under the process. The public hearing process for land-use decisions is designed to encourage all concerned citizens to have a voice.

Frequently, issues will come to light at the public hearing that help illuminate or clarify the issue.

## SECTION 1: THE DECISION-MAKING PROCESS

The goal of this section of the workbook is to acquaint the reader with the policies and procedures governing Teton County’s decision-making process. Section 2 will focus on steps for citizens to take to get involved in local decision-making.

### Due Process and Land-Use Decision-making

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*Prior to 1980*, Idaho cities and counties made land use decisions in the same way most other local decisions are made: by the informal, political decision-making process. In 1980, the Idaho Supreme Court held that site-specific land use decisions were “quasi-judicial” in nature and subject to certain requirements to protect the due process rights of applicants. The Supreme Court reacted to the “pressing need...for established standards and procedures by which particularized land use regulation is to be administered. To allow the discretion of local zoning bodies to remain virtually unlimited in the determination of individual rights is to condone government by men rather than government by law.”

The court wanted a predictable and consistent system by which land owners could apply for decisions concerning their land, neighbors could voice concerns and a rational decision be made.

Later rulings have defined the procedural requirements necessary to protect the due process of land use applicants. The Idaho Supreme Court has fleshed out the requirements, through numerous decisions, and a few rules have emerged: notice, the opportunity to present and rebut evidence, preparation of findings of fact and conclusions of law and the keeping of a transcribable record comprise the “common core of procedural due process requirements.”

## The Local Decision-Making Process

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*On a local level*, our governing documents include our comprehensive plans (city and county) and the ordinances, or laws, in place to implement the plan. Our local officials look to these documents in their decision-making. They also look to public input since it is the public that generated the ideas in the comprehensive plan and elected the officials whose duty it is to implement the Plan. Public hearings are important for a number of reasons. First, local officials must comply with statutory requirements for hearings or risk decisions being overturned by the judiciary. More importantly, hearings are more than a mere formality – they provide a forum for the public to offer information and insight concerning planning and land use issues. “Frequently, issues will come to light at the public hearing that help illuminate or clarify the issue,” notes City Attorney and Planner Jerry Mason. Finally, public hearings enhance the legitimacy of local government decisions.

It is important for the hearing process to be structured in such a way that the applicant’s right to present and rebut evidence is protected. A typical structure is:

- ➔ Explanation of hearing procedures by the chair or staff
- ➔ Presentation by the applicant and questions from the governing board
- ➔ Staff presentation
- ➔ Written correspondence
- ➔ Testimony by those supporting the application
- ➔ Testimony by those neutral to the application
- ➔ Testimony by those opposed to the application
- ➔ Rebuttal by the applicant
- ➔ Close the hearing and initiate deliberations
- ➔ Develop reasoned decision

“The key point is to get everyone who might have something positive to say about the application on the record first, so that those who oppose the application know what they have to rebut. Then, everyone who is opposed to the application is allowed to testify and rebut anything that was said in favor of the proposal. Finally, the applicant should be allowed to rebut everything that has been said in opposition to the application. This is not a time when new evidence is received, but where the applicant can argue against the opposing testimony. Members of the commission or governing board should avoid asking questions that will prompt the introduction of new information at this stage. The earlier that members ask questions and get information on the table, the more orderly the hearing process will be,” notes City Attorney and Planner Jerry Mason.

## Public Hearings vs. Public Meetings

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*Much of the business* of local government is conducted in public meetings. Public meetings require notice of the meeting and the agenda. They are open to the public, but there is no requirement that the public gets to speak. At public hearings, local governments are required to provide citizens the opportunity to testify within reasonable limits, including time limits on testimony.



## The Decision-Makers and Their Roles

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*Our local* decision-making process involves elected and appointed officials who are guided by governing documents including comprehensive plans and ordinances. Our elected officials include city council members, mayors, and county commissioners. Other decision-makers are appointed by the elected officials and in Teton Valley include the members of the city and county planning and zoning commissions.

**Role of the Chair:** The chair is the presiding officer for public meetings and hearings. The chair is either: the chair of the planning and zoning commission, the chair of the board of county commissioners or the mayor.

Their responsibilities include presiding over the meetings and hearings, recognizing members of the commissions or governing boards who wish to speak, recognizing individuals who wish to testify, keeping the commission or governing board on the agenda, enforcing time limits on testimony, maintaining order and decorum, stating questions and putting issues to vote and making procedural rulings.

The chair also serves as an ambassador to the public and must be friendly and able to put nervous speakers at ease. The chair also serves as the leader of the commission or governing board and must be able to unite and relate to members of various political persuasions. The chair must walk a fine line between authority and authoritarianism, between amiability and submissiveness, between formality and pretension.

**Role of Members:** The members of the commission or governing board form the decision-making body.

Their responsibilities include: listening to testimony; reading the staff report and written record; asking questions during testimony; making, seconding, debating and voting on motions and participating in drafting the written decision.

**Role of Staff:** Professional planners employed by the city or county play a vital role in reviewing applications and assisting local officials.

Their responsibilities include: working with and advising applicants during the application process, preparing a staff report objectively analyzing the application, meeting public requests for information on applications and proceedings, presenting the staff report at the hearing, pointing out issues that should be clarified by the applicant during the hearing, and answering questions from the commission or governing board.

In addition to processing applications, planners are also hired to engage in a variety of land-use planning tasks. This is an important position as the planner(s) is the one party that interfaces with applicants, the public, the P&Z Commission and the governing board.

**Role of the Applicant:** The applicant is the individual or entity seeking approval of a rezone, comprehensive plan amendment, variance, conditional use permit, annexation or subdivision plat.

The responsibilities of the applicant include: presenting a summary of the

At public hearings, local governments are required to provide citizens the opportunity to testify within reasonable limits, including time limits on testimony.

application; demonstrating that the application complies with the comprehensive plan, zoning ordinance or subdivision ordinance; answering questions from the members of the commission or governing board and rebutting testimony from opponents of the application.

“Remember, the burden lies on the applicant to make their case – this is not the responsibility of the staff or anyone else,” notes City Attorney and Planner Jerry Mason.



**Role of Citizens:** The responsibilities of the citizens include testifying to the positive or negative impacts of the proposal. The citizen does this by informing members of the commission or governing board about the characteristics of the neighborhood and/or the site. The citizen answers questions from members of the commission or governing board and suggests acceptable alternatives or ways to mitigate the negative impacts of the proposal. If possible, citizens should back up their views with references to relevant ordinances or the comprehensive plan.

## **Basic Duties of Local Decision-Makers**

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*Below are the basic outlines* of the responsibilities of the various governing bodies in the county. It is important to note that these officials often have overlapping jurisdiction in many cases.

**County Commissioner:** Zoning issues, budget concerns, concerns regarding the function and operations of all county agencies.

**City Council:** All business pertaining to the function and operation of that specific municipality.

**Mayor:** Chair of the city council.

**Planning & Zoning Commission (city and county):** Recommending commission to governing board (county commissioners or city council) on land use issues such as zoning, subdivision, conditional-use permits and planned unit development applications.

## **The Final Decision**

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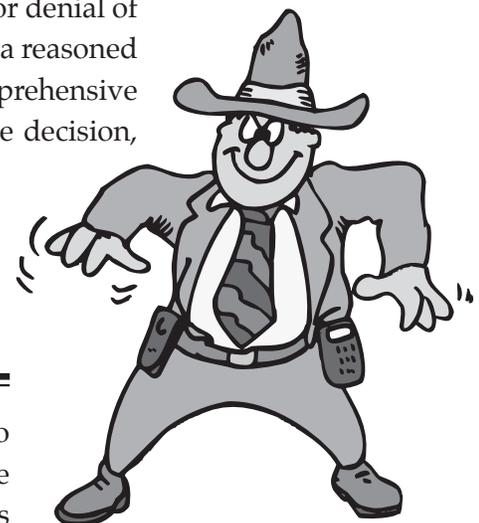
*Idaho's Local Land Use Planning Act* requires approval or denial of planning and zoning applications to be in writing, accompanied by a reasoned statement explaining the criteria and standards (found in the comprehensive plan, zoning ordinance, subdivision ordinance, etc.) relevant to the decision, the facts relied upon and the rationale for the decision.

## **SECTION 2: GETTING INVOLVED**

### **Staying Informed on Issues Important to You**

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*The first step* to getting involved with local decision-making is to gather information on issues important to you. It is important to use a variety of resources to gather information and form your opinions



to ensure that you have a complete picture of the issue at hand. Often times in a small community we rely on one source whether that be a neighbor, one periodical or “word on the street” to base our opinions, which often results in not getting the entire story. When the public is ill-informed, the public decision-making process can become incredibly ineffective.

### **Sources of Information**

**Media:** Listening to local radio and reading your local newspaper are great ways to find out what is happening in Teton County. Public hearings are noticed in the back of *Teton Valley News*, after the classifieds.

**Government:** Another good idea is to call either the county or your city government office and find out what is on their upcoming agenda. These schedules let you know the various measures coming before your city council, P&Z commissions or county commissioners. If you will be directly affected by a decision (for instance, you are an adjacent property owner to a proposed subdivision), the city or county will directly mail you a letter about the hearing.

**Local Citizen Groups or Organizations:** There are many organizations in Teton Valley who dedicate their work to particular issues. For example, VARD is focused on local land use. Another non-profit organization, Friends of the Teton River, is a non-advocacy group that works to understand, protect and improve the precious water resources of Teton Basin. They are a great resource for people interested in the state of water (ground and surface) in Teton County. Other non-profits in Teton County serve as resources for citizens concerned about everything from children’s rights to senior citizen issues.

**Friends and Neighbors:** In small communities, often our friends and neighbors may know a great deal about the specifics of an application up for public hearing. However, this information can also be fraught with misinformation. Again, it is recommended to use multiple sources of information to form your views.

### **Entering the Decision-Making Process**

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*If you find*, through your information gathering, an issue that is of importance or concern to you, your next step is to get involved. You can get involved in two ways, either through written comment or verbal testimony.

#### **Written Comment**

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*Often*, people are unable to attend hearings because of time conflicts or may not be comfortable with public speaking, in which case submission of written testimony is encouraged. The commission or governing board often establishes deadlines for submission of written testimony so that the testimony can be read before the public hearing. Check public notices for these deadlines, typically seven days in advance of the scheduled public hearing.

Written comment should include the positive or negative impacts of the proposal, your information on the characteristics of the site or neighborhood and, if possible, how your views are reinforced by the comprehensive plan or ordinances.

## Verbal Testimony

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*If you wish* to make verbal testimony, you must attend the scheduled public hearing where testimony will be heard and decision-makers will discuss and deliberate. Time limits to testimony may be imposed to ensure efficiency in the public hearing process.

### Making Commentary and Influencing the Public Process

When expressing your opinion on an issue, the way in which you present your opinion is as important as the opinion itself. It is important to remain calm and respectful during your testimony. The truth is that our commissioners and council members want more public input when they are making decisions. So, while style is helpful, the bottom line is that you express yourself respectfully, clearly and make your concerns known.

Below are a few tips to assist you in effectively communicating your concerns and opinions:



#### ➔ Know who to address

When you have a concern about a proposed issue, be sure to address the appropriate decision-making board. Typically, an application will fall under one jurisdiction (city or county). However, in the cities' areas of impact, they fall under the jurisdiction of the city and the county.

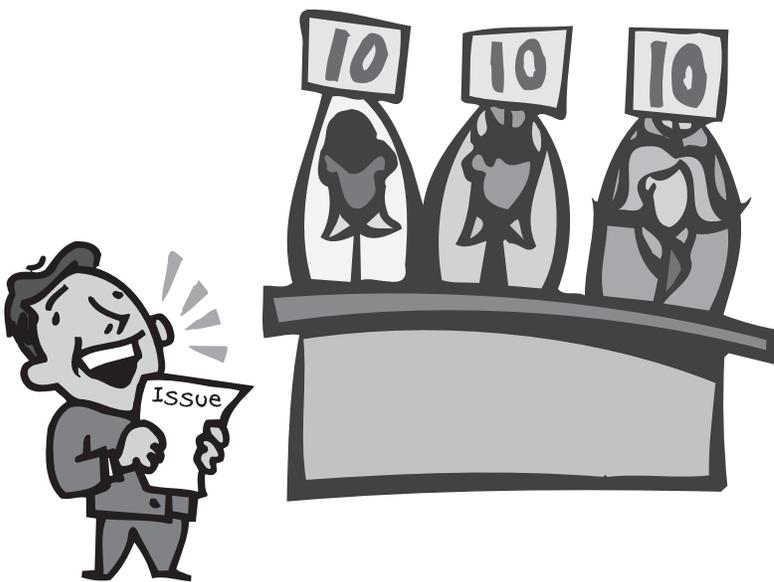
#### ➔ Know when to comment

Checking the agendas for the various committees and commissions will let you know who is holding a public meeting or hearing about an application and when. There are times when talking to your local officials directly is not only appropriate, but the best way to proceed with a concern. However, there are also times when talking directly to a local decision-maker on an application is not only inappropriate but a violation of ethics in government governed by open meeting law. Open meeting law keeps decision-makers from talking to each other about an application or directly to the applicant before the public hearing. This is because decisions on subdivisions, conditional use permits and annexation applications, to name some examples, are considered judicial or quasi-judicial decisions. In these decisions the decision-makers are supposed to be neutral. Although we cannot fully go into the intricacies of open meeting law here, in these cases it is best to wait to express your opinion through the official channels of written comment or verbal testimony during the public hearing.

In decisions in which the decision-makers are acting in a legislative function, such as considering zoning or the comprehensive plan, they are supposed to be gathering information through talking to their constituents. Decision-makers receive training in open meeting law and their judicial and legislative functions. If you are unsure about whether you can discuss a topic of concern with a decision-maker, ask him or her if it's legal to discuss it at that time.

➔ **Know how to express your comments during a public hearing**

Emotional versus objective. How do you express your concern on an issue to a local official? VARD has found that the best, most effective way to get your point across is using fact tempered with emotional appeal. What does that mean? If you do not want a used car lot in the middle of your neighborhood, for example, saying simply that you don't want it there is not sufficient. Consider explaining the potential impact such a business would have on the water quality and property value of your neighborhood. Also, you should let officials know if your neighbors share similar feelings about the proposal. The goal is to express your emotion and back it up with facts to support the position you are taking regarding the matter.



## **CONCLUSION**

*In conducting the workshop,* VARD's goal is to provide an informative guide to the local decision-making process. Included in this packet are handouts with contact information for government offices as well as sample testimony, both written and verbal. Also included in this workbook are basic meeting schedules for the county as well as for the cities of Driggs, Teton and Victor.

## **SOURCES**

Teton County, Idaho, Information Web site: [www.tetoncountyidaho.gov](http://www.tetoncountyidaho.gov)

Idaho Planning Association (contact information for Jerry Mason):  
[www.idahoplanningassoc.com](http://www.idahoplanningassoc.com)

United States House of Representatives (reference for citations of the United States Constitution): [www.house.gov/constitution/constitution.html](http://www.house.gov/constitution/constitution.html)

Constitution of the State of Idaho (reference for citations of Idaho State Constitution): [www3.state.id.us/cgi-bin/constretr?sctid=003010113.K](http://www3.state.id.us/cgi-bin/constretr?sctid=003010113.K)

United States Constitution (reference for citation within the Bill of Rights):  
[www.law.cornell.edu/constitution/constitution.billofrights.html](http://www.law.cornell.edu/constitution/constitution.billofrights.html)