



Published on *County of Glenn* (<http://www.countyofglenn.net>)

[Home](#) > Conduct of Public Hearings And Appeals Therefrom

3 Conduct of Public Hearings And Appeals Therefrom

3.2 Procedural Rules

-

3.2.1 Application of Rules

The rules and procedures set forth in this Title shall apply to all public hearings before the Board of Supervisors.

-

3.2.2 Physical Arrangements

A. Prior to a scheduled public hearing, the Clerk of the Board shall make all of the necessary physical arrangements in the room or chambers where the meeting will be held.

B. In general, the Board will be seated at desks or tables in the front of the room. Facing the Board will be other tables and chairs for the use of the parties at the hearing and their counsel.

C. If testimony from witnesses is to be presented at the hearing, a witness chair shall be located in a position observable and audible by the Board, the parties and counsel.

D. Convenient accommodations shall be provided for news media representatives.

E. Adequate seating arrangements facing the Board shall be provided for an audience and the general public.

-

3.2.3 Audio Recordings of Proceedings

A. In order to assure that the Minutes are as accurate as possible, all proceedings will be recorded, with the exception of closed sessions held in accordance with the Brown Act.

B. All statements or remarks must be made clearly and distinctly into a microphone. Each speaker will

state their full name, location of their residence, and if they represent any party or group the full name of the party or group for which they are speaking. This requirement is necessary if an appeal is filed from the decision of the Board, or a possible review by the Courts.

- **3.2.4 Call to Order**

When all necessary parties are in attendance at the appointed time, the Chairman of the Board shall call the matter for hearing as calendared and listed on the prepared agenda. Depending on the number of interested parties, and the length of time available for the matter, the Board may limit each speaker, other than the principals and their representative, to 3 minutes in the interest of time with more time allowed at the Board's discretion.

- **3.2.5 Presentation of Written Materials and/or Documentary Evidence Presented**

The Staff Report shall be made available to the Board and the public as part of the agenda packet, usually available 3 days before the proceedings. Any materials presented by the proponent, opponent, appellant, applicant or member of the public shall be made available to the Board at the same time.

- **3.2.6 Identification of Speakers**

The parties involved and counsel appearing in the matter shall be asked by the Chairman to identify themselves for the record. They shall state their names, addresses, and in whose behalf they are appearing.

- **3.2.7 Staff Reports**

A. The Board's staff, or the department head primarily concerned in the hearing, shall be requested by the Chairman to present the department's position with an oral report of the information contained in the staff report and state the department's recommendations. A copy of the full written report shall be part of the agenda packet available to each member of the Board not less than three days prior to the hearing. The agenda packets will be available to the public and interested parties at the same time.

B. All written materials and records made available and relied upon by the Board to make their decision automatically become part of the public record.

- **3.2.8 Proponents' Presentation**

A. After the staff makes its report and recommendation, the Chairman shall request the proponents (or the appellants, if an Appeal Hearing) of the proposal or matter, or their representative, to make their presentation.

B. The Chairman then inquires of other members of the Board as to whether or not they have pertinent

questions to ask the proponents.

•

3.2.9 Opponents' Presentation

A. Following the proponents' presentation, the Chairman shall request the opponents (or if an Appeal Hearing, the proponent) of the proposal or matter, or their representative, to make their presentation.

B. The Chairman then inquires of other members of the Board whether they have pertinent questions to ask the opponents.

•

3.2.10 Public Input

A. Prior to the conclusion of the hearing the Chairman shall allow the general public in attendance to present any pertinent evidence or opinions or statements which are relevant to the matter being heard. Such persons shall identify themselves and make their presentations.

B. The Chairman inquires whether the parties or other members of the Board have pertinent questions to ask of this person.

•

3.2.11 Rebuttal

After all the evidence is presented the Chairman shall allow the proponents (or appellants) and the opponents (or proponent if an Appeal Hearing) or their representative to make a short rebuttal statement.

•

3.2.12 Board Decision

At the conclusion of the hearing the Board shall deliberate and make one of the following decisions:

A. Approve the matter;

B. Deny the matter; or

C. Continue to a time certain for additional information.

3.4 Hearing Rules

•

3.4.1 Fair Hearing

In the conduct of a public hearing, every Board is acting in a quasi-judicial capacity. The parties involved are entitled to and deserve their constitutional right of "due process of law." Therefore, every hearing shall be open to the public and each member of the Board shall approach his task in a fair and impartial manner with an open mind. Each member should read the staff report prior to the hearing.

- **3.4.2 Chairman's Responsibility**

The Chairman shall conduct the hearing fairly and impartially. He or she should never allow more than one person to speak at the same time. The Chairman should insist that common courtesy and decorum be observed at all times. Bickering, boisterousness, anger, and name-calling should never be permitted. If undue disturbances persist which cannot be controlled, the meeting should be adjourned immediately.

- **3.4.3 Conflict of Interest of Member**

In the interest of fairness, a Board member should disqualify himself or herself if the member has a conflict of interest, or if the member harbors any bias, prejudice, or personal interest in the matter to be heard.

- **3.4.4 Challenge of Member Due to Conflict of Interest**

A. Any member of the public who challenges the right of a member of the Board to hear the matter due to a conflict of interest or bias, prejudice, or personal interest in the matter to be heard shall do so with factual documentation of the alleged conflict of interest, bias, prejudice, or personal interest.

B. If a Board member does not believe that a conflict of interest exists the remainder of the Board may determine if the challenge has merit before hearing the matter.

- **3.4.5 Relevant Commentary and Written Materials**

A. The Chairman should make certain that redundant, repetitive and grossly irrelevant matter is not asserted by any person. Formal court rules of evidence shall not be applicable to public hearings. All statements and evidence shall be relevant to the issues being heard, and of a nature upon which reasonable persons would rely for the conduct of serious matters.

B. While wide latitude should be permitted for persons wishing to be heard, the Chairman should restrict them to statements of fact or expressions of specific opinion on one or more issues involved in the proposals. Irrelevant and redundant statements or evidence should never be permitted by the Chairman.

- **3.4.6 Prohibition of Interruptions and Questions**

There should never be interruptions of or questions to a Board member, a party, counsel or a witness from representatives of the news media, from members of the audience, or from any witness, party or counsel during the hearing. Any questions or remarks should always be addressed to the Chairman, who in turn may make inquiry of the witness, party, counsel or other person if appropriate.

- **3.4.7 Not a Public Forum**

The Board should never permit itself to be used as a forum or a platform by the advocates of a partisan cause merely as a means of having themselves heard or getting their particular views before the public. In other words, the issues to be discussed and resolved at a public hearing are only those which lawfully belong before the particular Board.

- **3.4.8 Summary of Written Materials**

Rarely should long letters or communications be read in full into the record unless they are particularly relevant. In most instances, the staff or department concerned with the hearing can make a digest of the communication or letter, which can be read into the record by the Chairman. The lengthy letter or document may then be filed as an exhibit to become part of the record.

- **3.4.9 Use of Microphone**

Anyone who is permitted to speak shall always do so from the podium into a microphone so that his or her remarks may be recorded as well as heard by all present.

- **3.4.10 Staff Reports**

A. Staff and department reports should always be based on facts, the law, and technical considerations. Nevertheless, the staff should always conclude the report with its recommendations for approval or disapproval of the particular issue or issues within the bounds of established board policy, and state the reasons therefore.

B. The report shall be completed in written form at least three days prior to the hearing in order to comply with Sections 3.02.07 and 3.06.04.

- **3.4.11 Determination By Board**

Members should never prejudge a matter and should never bring to their deliberations any preconceived notions or ideas which they might have. In their deliberations, they should be guided by the evidence produced at the hearing and then apply to that evidence the benefit of their own experience and expertise.

3.6 Appeal Rules

- **3.6.1 Appeals Hearings**

Appeals from an order, decision, or determination of a Board or Commission shall be a ?hearing de novo? (heard anew) unless specifically limited by statute or ordinance or permitted by special order of the Board of Supervisors.

-

3.6.2 Burden of Proof

The burden shall be on the appellant to show that the decision or conclusion of the Board appealed from is contrary to law or that there is no substantial evidence to support the conclusion or decision of the Board or Commission.

- ### **3.6.3 Limitation on Issues**

The notice of appeal filed by the appellant shall specify the decision being appealed, the error claimed to have been made and the legal basis for such claim. Unless otherwise ordered by the Board of Supervisors, appellant's appeal and presentation shall be limited to the allegations stated in the notice of appeal.

- ### **3.6.4 Notice of Hearing**

Notice of the time and place of hearing shall be given by the Clerk by mail, not less than ten days prior to the hearing, to the appellants, the respondents and other parties of interest who appeared as a matter of record before the Board or Commission whose order, decision, or determination was appealed from.

- ### **3.6.5 Reports**

A. Prior to the appeal hearing, the Clerk of the Board of Supervisors shall obtain from the staff or department the documentary record which was before the Board or Commission whose decision is being appealed, which will be available for the Board to review.

B. The department who has responsibility for the matter will prepare a staff report which will be included with the agenda packet provided by the Clerk to each Supervisor not less than three days prior to the appeal hearing.

C. The audio recording of the hearing shall be maintained by the Clerk who shall also make it accessible to the Board of Supervisors and others for review.

- ### **3.6.6 Application of Hearing Rules**

Except as set forth herein-above the appeal hearing before the Board of Supervisors shall conform to the rules for hearings provided in Chapter 3.04.

- ### **3.6.7 Action of Board**

The Board of Supervisors shall affirm, reverse, or modify the decision or determination of the Board or Commission appealed from or, in certain circumstances, refer the matter back to the Board or Commission for further hearing upon specified issues.

3.8 Audio Recordings of Proceedings

- **3.8.1 Custody and Retention of Recordings**

A. Effective January 2006, all Board of Supervisors meetings shall be recorded on an internet-based recording system and are automatically archived for future retrieval.

B. All audio recordings shall remain in the custody and control of the Clerk of the Board. However, copies of the audio recordings of a proceeding will be made available pursuant to the California Public Records Act. The cost will be set by the County's master fee schedule.

C. All recordings of the Board of Supervisors meetings shall be accessible through the County's website at www.countyofglenn.net.

- **3.8.2 Transcripts**

Any interested person may bring a court reporter to a proceeding, as the County does not provide a court reporter in the regular course of business.

- **3.8.3 County Requests**

In the event any other County official or department head requests a transcription of such recording or portion thereof, they may bring a court reporter to the hearing and pay for the service out of their budget appropriation.

- **3.8.4 Requests to Listen to or Copy of Recording**

A. Any person without internet access desiring to listen to the audio recording shall coordinate a time with the Clerk, whereby the Clerk shall arrange to make a computer available for this purpose. In the alternative, the Clerk will make a copy of the audio recording available for a minimum charge. The Clerk may, for purposes of clarity, request the interested party to submit their request on a Public Record Request Form provided by the Clerk which shall describe the particular recording or portion thereof desired.

B. The form shall indicate the following:

1. The particular Board or Commission involved;
2. Date of the hearing or meeting recorded;
3. Any specific subject matter desired;
4. The approximate time of day the matter was recorded, if known;
5. The estimated length of the time needed to listen or copy; and
6. The desired appointment date or time.

C. Upon receipt of the completed form, the Clerk shall notify the person of the confirmation of the appointment date, time and place, or if the date or time is not available, the Clerk shall arrange another mutually convenient date, time and place.

D. The Clerk shall give his or her best efforts to accommodate the requested appointment date and time within the constraints of other pressing County business. Within these confines, if the requested appointment date or time is not practicable or possible, the Clerk shall arrange the appointment for the next earliest available date, time and place. If necessary, due to the constraints of other pressing County business and the estimated length of time needed by the person to listen or copy, the Clerk may arrange more than one appointment so as to best accommodate the requesting person and allow him or her access at the earliest possible time.

3.10 Exceptions

-

3.10.1 Conflict of Laws

Any of the foregoing rules which may be contrary to or in contravention with any applicable state or federal law, statute, rule or regulation shall be inapplicable, and the federal or state law, statute, rule or regulation shall prevail, but all of the remaining rules shall remain in full force and effect.

Source URL (modified on Apr 4 2016 - 11:32am): <http://www.countyofglenn.net/conduct-public-hearings-and-appeals-therefrom>