

Public Hearings

There is a difference between a public meeting and a public hearing. All public hearings are public meetings but not all public meetings are public hearings. In general a public meeting is one in which the public is invited to come and watch you deliberate on and decide matters. There is no right for any individual member of the public to actively participate in the meeting (although there is nothing wrong about allowing it to). In a public hearing the public has the right to participate by giving information or testimony about the topic of the hearing. All meetings that meet the definition of meeting in the Open and Public Meetings Act must be public meetings. A public meeting must also be a public hearing when some specific law, ordinance or policy requires it to be so.

Most things that city and town councils are involved in do not require public hearings. However, city and town councils are required by state law to hold public hearings on some specific issues. These issues fall into two general categories: 1) financial issues; and 2) the enactment of land use control ordinances and policies. Examples of the financial issues that require a public hearing are the adoption of a city or town budget, tax increase, and issuing of certain bonds. The common land use issues that require a public hearing are the adoption (or amendment) of the general plan, land use control and subdivision ordinances, and the approval of certain subdivisions. Some less common matters that require a public hearing include the setting of compensation for elected and appointed officials and the vacation of a street.

Most ordinances adopted by a city or town that do not regulate the use of land, do not require a public hearing. For example the adoption of animal control ordinances, nuisance ordinances, and ordinances regulating traffic or use of public property do not require a public hearing. Even though a public hearing may not be required for these types of ordinances it may be a good idea to hold one anyway. After all it does not do any good to pass an ordinance that nobody knows about. In addition a controversial ordinance will result in an eventual de facto public hearing, even though it is not called or required, after the ordinance is passed and becomes known to the public.

All required public hearings will have a mandatory notice requirement. This requirement will include what must be stated in the notice and the manner of publicizing the hearing. In short, if the law requires a public hearing, the law will also dictate what, when, how and how often the public must be notified of the hearing. These noticing requirements should be strictly adhered to or you risk having to hold the hearing anew. There is no general rule of thumb for these notices except almost all notices must be published in a newspaper of general circulation unless the city or town is so isolated no such newspaper exists. The only way of knowing what needs to be done for each public hearing notice is to look up the law.

The following are examples of some of the most common required public hearings and the minimum published notice required. This is not a complete list. There are other

required public hearings. You have to check the state statutes when ever you are doing something out of the ordinary to see if a public hearing is required.

- The adoption or amendment of an annexation policy declaration requires two public hearings, one with the planning commission and one with the city or town council each with at least 14 days notice.¹
- The ordinance annexing property into a city or town requires a public hearing with at least seven days notice.²
- A boundary adjustment requires a public hearing with a notice given at least once a week for three consecutive weeks.³
- A properly filed request for disconnection is entitled to a public hearing with a seven day notice.⁴ A public hearing with a seven day notice is required before an ordinance can be passed adopting or amending the compensation for elected and statutory officers.⁵
- The hearing for adoption of or amendment of a budget in a town needs seven days notice⁶ while the required public hearing notice for adoption or amendment of a budget in a city is seven days.⁷

Notices of public hearings regarding land use matters are more complicated. A public hearing is required for the amendment or adoption of a general plan. This hearing requires notice be published at least 10 calendar days before the hearing.⁸I do not know the difference between just a “day” and a “calendar day” but apparently it was important to the writers of the law that it be clear that the notice not just be given 10 days before, it had to be calendar days. I myself never count days I can’t find on the calendar but maybe someone else does. Whenever any land use ordinance (zoning or subdivision) is amended or adopted a public hearing is required. The notice for this hearing must be published at least 10 calendar days before the hearing, posted in three public places in the city, and mailed to the property owners who are directly affected.⁹

Public hearings can become quite contentious. It is the duty of the chair of the meeting to see that they are kept in control. The best way to do this is to establish clear rules for the public hearing. Those rules can include reasonable limitations on the time each speaker is given and the conduct of the speaker. What is reasonable depends on the issue, the number of people present and the time constraints of the meeting. One good way of keeping a public hearing on track is for the chair to keep members of the council and city staff from responding directly to the member of the public who is speaking. It is very tempting to try to correct misstatements made in a public hearing, but this is rarely helpful. It leads to unnecessary confrontation and argument. A public hearing is a time for the public to speak and not a time for the council members to pontificate.

¹ Utah Code 10-2-401.5(2).

² Utah Code 10-2-407(3)(b)(ii).

³ Utah Code 10-2-419(2).

⁴ Utah Code 10-2-502.5.

⁵ Utah Code 10-3-818.

⁶ Utah Code 10-5-108.

⁷ Utah Code 10-6-113.

⁸ Utah Code 10-9a-204.

⁹ Utah Code 10-9a-205

Public hearings can be very useful tools for local government officials. Like any tool, they have to be used properly. I believe in the following maxims for proper use of a public hearing.

- Always remember that the purpose of the public hearing is to get information from the public and to inform the public. It is not to convince the public that what you propose to do is right.
- The more formal the rules of procedures for the meeting, the better the hearing will be. Formal rules of procedure for a public hearing will result in respectful speakers and respect for the process. Less formal rules of procedure can lead to chaos, contention and incivility.
- All speakers should be afforded respect from the council and the other members of the public. The chair must use the power of the gavel to see that this is done.