



DISTRICT OF NORTH SAANICH

COUNCIL POLICY

TITLE: PUBLIC HEARING GUIDELINES	NO. COU-007
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The following guidelines were prepared and circulated by the legal firm of MacKenzie Lidstone, Vancouver, B.C, for the use of elected and appointed officials in respect of statutory public hearings.

STATEMENTS TO BE READ

BY THE CHAIR OF

THE PUBLIC HEARING

This public hearing is convened pursuant to the Local Government Act to allow the public to make representations to Council respecting matters contained in proposed (full correct citation of by-law).

Every one of you present who believes that your interest in property is affected by the proposed by-law shall be given a reasonable opportunity to be heard or to present written submissions respecting matters contained in the proposed by-law. It is important that you restrict your remarks to matters contained in the proposed by-law. None of you will be discouraged or prevented from making your views known. Please do not applaud during or after people speak as this may unreasonably intimidate other people.

When speaking please commence your remarks by clearly stating your name and municipality of residence.

Members of Council may, if they so wish, ask questions of you following your presentation. However, the function of Council at this public hearing is to listen to you rather than to debate the merits of the proposed by-law.

After this public hearing has concluded, Council may, without further notice, give whatever effect Council believes proper to the representations made at this hearing.

END OF OPENING STATEMENT

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The Chair should keep the following in mind. The hearing:

“ . . . should be held with a view to listening to observations pro and con regarding the proposed zoning and, while there is no legislative requirement that there should be active encouragement to persons to speak, there should indeed be nothing suggested to discourage them from speaking”.

The Chair must not discourage or prevent anyone from speaking or even forbid the repetition of arguments already given by others.

A hearing may be adjourned without setting a new date for continuation but proper notice of the resumed hearing must then be given in accordance with the Local Government Act.

The Chair of a public hearing should read and be familiar with the *“Guidelines for Council Members”*. Before a public hearing begins the Chair should read out the document entitled *“Statements to be read by the Chair of the Public Hearing”*.

GUIDELINES FOR COUNCIL MEMBERS

The purpose of a public hearing is to give all interested persons an opportunity to be heard by Council. There must be no suspicion of suppression by any member of Council of any person attending the public hearing.

There is a duty to:

1. Listen to all representations;
2. Have an open mind; and
3. Give the public the opportunity of presenting all views.

Council must not during a public hearing:

1. Make their views known individually or collectively;
2. Disclose their deliberations;
3. Answer questions;
4. Debate the merits of the proposal; or
5. Attempt to sell the project, amendments or zoning, and in fact to do so would give the appearance of having already closed your minds on the subject.

Council should not:

1. Amend the by-law after a public hearing without obtaining legal advice as to whether the amendments alter permitted uses or density so as to require a rehearing; or

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2. Receive briefs or other communications from parties after the hearing; this does not mean that individual Council members need remain incommunicado but they must take great care not to receive information that opposing parties have not been given a chance to respond to at a hearing. If at the public hearing a question is raised that concerns a technical detail that cannot be answered immediately, a staff report requested by Council may properly be received and discussed by Council after the conclusion of the public hearing, so long as they do not receive further information from parties other than staff or experts retained by the municipality.

If there is a failure to follow the proper procedure for the conduct of a public hearing or to fulfill a statutory prerequisite, the Courts have held that it is immaterial whether or not anyone was prejudiced by the error and that the Court had no discretion to refuse to quash the by-law. Therefore, all Council members should take great care to follow these provisions of the Local Government Act.

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