Citizen Participation

Questions and Answers

What does the Growth Management Act require local communities to do regarding citizen participation?

The basic legal requirement for public participation says that every jurisdiction planning under the Growth Management Act (GMA) "shall establish and broadly disseminate to the public a public participation program identifying procedures providing for **early and continuous public participation** (emphasis added) in the development and amendment of comprehensive land use plans and development regulations implementing such plans." (RCW 36.70A.140)

How do local governments ensure "early and continuous public participation?"

The law provides guidance on this point: Also in RCW 36.70A.140, it mentions "broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments."

To meet these requirements and the requirements of the Open Public Meetings Act, jurisdictions publish meeting dates for their council or commission and advisory boards. Citizens are informed through notices in newspapers and newsletters. In addition, local governments identify their timeline and process for amending comprehensive plans and zoning. A "docketing" process, keeping a list of possible changes, helps to determine the schedule. Cities and counties should schedule the amendment process to include time to provide notice and gather comments from nearby jurisdictions and other affected agencies such as special districts and private utilities.

Local governments may devise additional strategies in their public participation program. Many innovative and successful programs have been developed and carried out at the local level since the GMA was passed in 1990. Some of these programs emphasize outreach to segments of the population that do not often attend public meetings such as senior citizens and youth.

What does the law say about local public meetings?

The Open Public Meetings Act states that: "All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter." (RCW 42.30.030)

A "meeting" includes any gathering of the governing body at which action is taken. "Action" means the transaction of the official business of the governing body, including, but not limited to, receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and formal actions." A "governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment. This definition covers city and county councils, county commissions, planning commissions, and advisory boards such as library and park boards.

What are the basic requirements for meetings?

The date, time, and place of regular meetings need to be established by ordinance or resolution (RCW 42.30.070). Either the presiding officer or a majority of the council, board, or commission's members may call for a special meeting, as long as a 24-hour written notice is given to each member. Members of the media who filed a request for notice with the council, board, or commission must also be notified. At a special meeting, no final action may be taken on any item not on the agenda (RCW 42.30.080).

A meeting may be adjourned or continued, as long as the door of the meeting room is posted with the time and date of the continuation (RCW 42.30.090 and .100).

When can a council, commission, or board go into executive session?

Very rarely. RCW 42.30.110 lists those situations for which an executive session is permissible. For municipal purposes, they are generally limited to personnel matters, real estate acquisition, the selling or leasing of property, and consultations with the agency's legal counsel. While in executive session, only "discussion" or "consideration" are permitted; all final action must be taken afterward in open session. Before the executive session begins, the presiding officer announces that the board is going into executive session, states the purpose of the session and the reason it is exempt from the Open Public Meetings Act, and declares the length of time the executive session will last. If there's any question about how long it will take to hold the executive session, it's important to *underestimate* the time required, since the board can't return to its regular agenda until the stated time declared for the executive session has expired. However, it's perfectly legitimate for the presiding officer to return to the public meeting from the executive session to extend the executive session as needed, until all discussion is completed.

After a hearing on a proposed plan update or ordinance has been held, is it O.K. to make "minor changes" prior to adoption (but after the hearing is closed), without giving the public the opportunity to comment on those "minor changes"?

No. The Eastern Washington Growth Management Hearings Board ruled that "Each amendment or change made during this process, not exempted under RCW 36.70A.035(2)(b), requires at least one additional opportunity for public comment with appropriate notice and time to review the amendments prior to adoption. No other interpretation makes sense given the importance the GMA places on public participation…." (EWGMHB Case No. 01-1-0018, *1000 Friends of Washington and Neighborhood Alliance of Spokane v. Spokane County)*

The exemptions are when the proposed change (1) has had an environmental impact statement (EIS) prepared on it and it is within the EIS range of alternatives; (2) is within the scope of the alternatives available for public comment; (3) corrects typographical errors, changes names or addresses, or clarifies language without changing its effect; (4) makes a capital budget decision as provided for in RCW 36.70A.120; or (5) enacts a moratorium or interim control under RCW 36.70A.390.

But what if we have a real emergency and just don't have time for an extended public participation process?

You have to make time for public participation. The Central Puget Sound Growth Management Hearings Board in *McVittie v. Snohomish County* concluded that a jurisdiction must provide notice and opportunity for the public to participate prior to adopting any GMA plan or amendment to that plan, regardless of urgency. Although the board noted that a local jurisdiction has some degree of discretion to determine what constitutes appropriate public participation, it also stated that providing "zero" opportunity for public participation prior to adoption is not appropriate (CPSGMHB Case No. 00-3-0016).

The municipal or county code should identify specific criteria for determining when an "emergency" exists. These criteria will be important when determining if an amendment to the comprehensive plan or zoning is an appropriate action or should be docketed for the next amendment process.

For further information including examples of successful public involvement approaches used by cities and counties around the state, call Growth Management Services, Washington Department of Community, Trade and Economic Development at 360-725-3000. Many resources and ideas are also available on the World Wide Web.