

# LANE COUNTY LOCAL GOVERNMENT BOUNDARY COMMISSION

## PUBLIC HEARING FORMAT

The boundary commission public hearing will generally follow the format below.

1. The chair introduces the item for public hearing
2. Any *ex parte* contacts or conflicts of interest are declared by commission members
3. The notice of public hearing will be read—objections to the adequacy of the notice may be given in writing or orally by any interested party
4. A review of the printed staff notes is provided by staff (the staff notes automatically become a part of the public record)
5. The public hearing is opened by the chair
  - Any person testifying is asked to provide their name and address
  - The commission may establish time limits on public testimony
  - a. The *proponents* provide an opening statement
  - b. Those *in support* of the proposal will testify in the following order
    - Public officials or representatives of public officials
    - Other interested persons
  - c. Those *in opposition* of the proposal will testify in the following order
    - Public officials or representatives of public officials
    - Other interested persons
  - d. Those *neither in support nor opposition* will testify
  - e. *Rebuttal by the proponents* is provided
6. The chair closes the public hearing and the matter is before the commission
  - No further public testimony is taken, however, the commission may direct questions to staff or other parties present
  - The commission will make a decision on the request if it is determined adequate information has been provided
  - The commission may continue the hearing to another date

## EX PARTE CONTACTS AND CONFLICTS OF INTEREST

As a state agency and commission, the boundary commission performs a combination of legislative and quasi-judicial functions. When acting on a major boundary change, such as formation of a new unit of taxing government, the commission's functions are more legislative in nature. Never-the-less, the commission has always acted to declare all contacts outside the hearing process and any conflict of interest. As a state agency, the commission performs the function of a neutral forum on local boundary matters.

Ex parte contacts. Any contacts outside the hearing proceeding must be declared by individual commissioners. This reporting should include the date of contact, the person or persons involved, and the nature and details of the discussion. This declaration is made in advance of the public hearing so that all parties present have the opportunity to learn of the substance of the discussions and have the opportunity to concur or rebut facts that may not otherwise be part of the record of the hearing.

Conflicts of interest. There are two considerations:

1. Is there a direct financial impact on the commissioner resulting from the boundary change? A potential conflict of interest is more likely to arise if there is a direct financial gain to be realized by the member or his or her related family from the decision. This question can be answered by declaring whether the commissioner lives or owns property in the affected area. That declaration may not represent a legal conflict of interest where the commissioner is not affected to any lesser or greater degree than are broad classes of similarly affected individuals or owners in the boundary change area. This is particularly true in a district formation where the taxes paid by a commissioner on property owned is treated like all other similar properties in the affected territory. That is, ownership of land in the proposal area and the resulting tax impacts should be declared, but are not grounds for a commissioner to stand down from acting on the issue before the commission.
2. The other issue is bias. If a commissioner feels so strongly about a matter before the commission, that the commissioner cannot hear the testimony, weigh the facts and make an impartial decision based on findings and reasons, then that commissioner should so declare and step down from the hearing and decision. If a commissioner feels that he or she can participate and provide the impartial forum in the matter before the commission, then no real bias exists and the commissioner can participate.

***For example, a commissioner who lives in the territory of a proposed boundary change or owns property might give a residential address or indicate acreage owned and general location and purpose of that land (e.g., a 40 acre farm on McKenzie Highway near Walterville). For the record the commissioner may state, in order to place any possible conflict of interest on the table, "I live/own property in this proposed district, however, the tax impacts are minimal on me. I would not be affected to a degree more or less than other neighbors/owners in a similar situation or with similar interests, and I feel that I can hear the testimony and reach a fair decision based on the facts. Therefore, I have no "conflict of interest" that would cause me not to participate in this hearing."***