




Georgia Zoning Public Hearings and Meetings

Legal Requirements and Potential Pitfalls

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Public Hearings: Notice Requirements

- OCGA 36-66-4(b)
- (b) If a zoning decision of a local government is for the rezoning of property and the rezoning is initiated by a party other than the local government, then:
 - (1) The notice, in addition to the requirements of subsection (a) of this Code section, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and
 - (2) A sign containing information required by local ordinance or resolution shall be placed in a conspicuous location on the property not less than 15 days nor more than 45 days prior to the date of the hearing.
- Best practices:
 - Double check notice timing and that signage was placed
 - If there are additional local requirements by ordinance, comply with those
 - For example, you may also need to notice a planning commission or similar meeting for a recommending body.

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Who participates? Conflicts of Interest

OCGA 36-67A-2

- A local government official who knew or reasonably should have known he or she:
 - (1) Has a **property interest** in any real property affected by a rezoning action which that official's local government will have the duty to consider;
 - (2) Has a **financial interest** in any business entity which has a property interest in any real property affected by a rezoning action which that official's local government will have the duty to consider; or
 - (3) Has a **member of the family having any interest** described in paragraph (1) or (2) of this Code section




shall immediately **disclose** the nature and extent of such interest, in writing, to the governing authority of the local government in which the local government official is a member. The local government official who has an interest as defined in paragraph (1) or (2) of this Code section shall **disqualify** himself from voting on the rezoning action. The disqualified local government official shall not take any other action on behalf of himself or any other person to influence action on the application for rezoning. The disclosures provided for in this Code section shall be a public record and available for public inspection at any time during normal working hours.

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Conflicts of Interest: OCGA 36-67A-4

- Any person knowingly failing to comply with the requirements of this chapter or violating the provisions of this chapter shall be guilty of a misdemeanor.
- Your local government or zoning board members must:
 - Disclose
 - Recuse
 - Make no attempts to influence

Failure to do so is a crime!
And, it will invalidate your vote.






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Hearing Procedures: OCGA 36-66-5

- (a) Local governments shall adopt policies and procedures which govern calling and conducting hearings required by [Code Section 36-66-4](#), and printed copies of such policies and procedures shall be available for distribution to the general public. Such policies and procedures shall specify a minimum time period at hearings on proposed zoning decisions or quasi-judicial decisions for presentation of data, evidence, and opinion by proponents of each zoning decision and an equal minimum time period for presentation by opponents of each proposed zoning decision, such minimum time period to be no less than ten minutes per side.
- Requirement to adopt hearing policies
- Make policies available to the public
- Equal time for each side, no less than ten minutes






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Hearing Procedures: OCGA 36-66-5

- (b) In addition to policies and procedures required by subsection (a) of this Code section, each local government rendering a zoning decision shall adopt standards governing the exercise of the zoning power, and such standards may include any factors which the local government finds relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property. Such standards shall be printed and copies thereof shall be available for distribution to the general public.
- (b.1) In addition to policies and procedures required by subsection (a) of this Code section, each local government providing for a quasi-judicial board's or agency's grant, denial, or review of a quasi-judicial matter shall adopt specific standards and criteria governing the exercise of such quasi-judicial decision-making authority, and such standards shall include the factors by which the local government directs the evaluation of a quasi-judicial matter. Such standards shall be printed and copies thereof made available for distribution to the general public.
- Adoption of standards to be used in making decisions
- Make available to public



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






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Hearing Procedures: OCGA 36-66-5

- (c) The policies and procedures required by subsection (a) of this Code section and the adoption of standards required by subsections (b) and (b.1) of this Code section shall be included in and adopted as part of the zoning ordinance. Prior to the adoption of any zoning ordinance enacted on or after July 1, 2022, a local government shall conduct a public hearing on a proposed action which may be advertised and held concurrent with the hearing required by subsection (a) of Code Section 36-66-4 for the adoption of a zoning ordinance. The provisions of subsection (a) of Code Section 36-66-4 relating to notices of public hearings for the purposes of that subsection shall also apply to public hearings required by this subsection.
- Policies and procedures incorporated into zoning ordinance

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Disruptive Meeting Participants

- Due Process Rights
 - Meeting participants have a due process right to speak
 - Particularly true for applicants or opponents whose property rights will be directly impacted by decision

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Disruptive Meeting Participants

- First Amendment Rights
 - Meeting participants have a free speech right to participate
 - Can impose reasonable time, place, and manner restrictions on speech (your hearing procedures under OCGA 36-66-5)
 - Cannot impose content restrictions
 - If a participant's speech contains objectionable content, but is otherwise compliant, the best practice is to grin and bear it.

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Disruptive Meeting Participants

- If a participant violates your content-neutral rules of decorum, they may be asked to leave or escorted out by law enforcement—but this should be a last resort.

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Additional Meeting/Hearing Practice Pointers

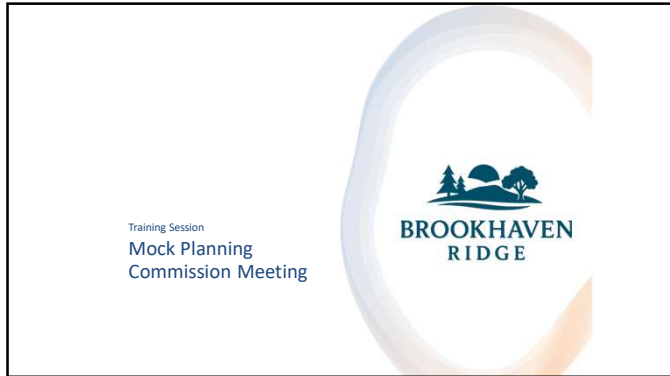
- Treat the meeting as if what you say will be used in court later.
- If you are on a hearing board, remember that you are not a witness—you are not required to answer questions or engage in a quid pro quo with the presenters.
 - If you need to ask the presenter questions about their application, you can do so—again remembering to treat your questions as if they will come up in court.

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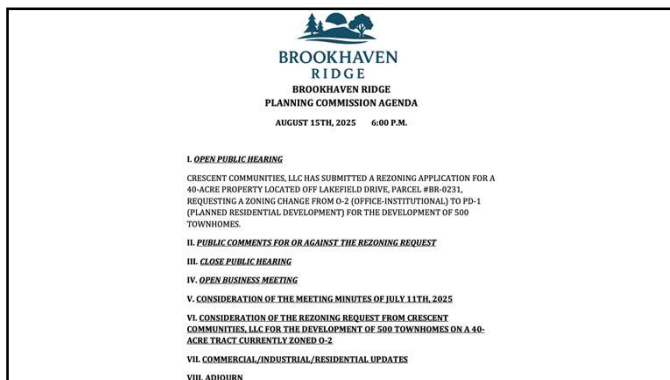
Additional Meeting/Hearing Practice Pointers

- When in doubt, use your lawyer as cover!

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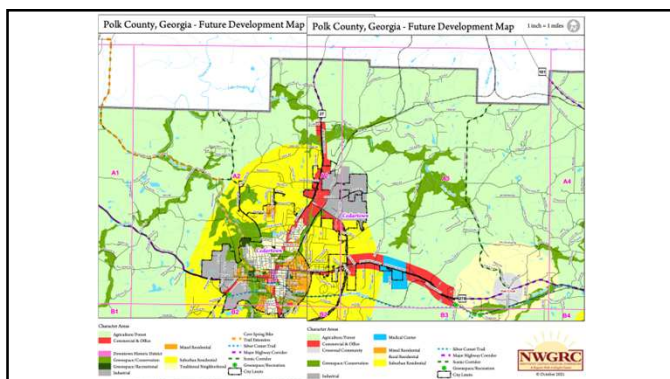
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