

Public Hearing Policy Recommendations

Introduction

Following a recent public hearing on [R277-700](#), Board members requested staff research on how other state agencies and LEAs engage in public hearings. Members were specifically interested in knowing if it was possible for the public hearing to function more as a question-and-answer session rather than just a listening session. Board members were especially interested in Utah school districts. Staff reviewed twelve (12) different organizations. The four (4) school districts reviewed were Granite, Salt Lake City, Davis, and Jordan. Overwhelmingly, the research has found that organizations that hold public hearings do not engage in question-and-answer type hearings. Staff has outlined three policy options below with the recommendation to keep the status quo.

Recommendation

Policy Option 1: Keep the status quo and use a public hearing to gather information from the public. Do not have board or staff interactions. Allow the public to use the full time to give comment.

Policy Options

- 1) Policy Option 1: Keep the status quo. Use a public hearing to gather information from the public. Do not have board or staff interactions. Allow the public the full time to give comment.
- 2) Policy Option 2: Keep the status quo and hold a pre public Hearing meetings where staff or board members can be present to host an informational session where the public is encouraged to ask questions and staff and board members can respond.
- 3) Policy Option 3: Allow board members to have conversations, answer questions and respond to the public during the public hearing.

Policy Option 1

Keep the status quo and use a public hearing to gather information from the public. Do not have board or staff interactions. Allow the public to use the full time to give comment.

This option is by far the most common way to conduct public hearings. It is used by Utah school districts, State agencies and the Federal Government. This option allows the public the full time to voice their questions, concerns, and support for proposed government actions. This option also protects the board from those who are seeking to make comment to make the board, or its members look bad. This option does not discourage board member and public interaction through other means such as the public reaching out to board members through email, phone calls and appointments. This option allows for the maximum number of public participation at one meeting.

The following organizations use this type of public hearing process: Park City, Environmental Protection Agency (EPA), Salt Lake City Planning Commission, Salt Lake City, Salt Lake City School District, Jordan School District, Davis County School District, and Granite School District.

Policy Option 2

Keep the status quo and hold a pre public Hearing meetings where staff or board members can be present to host an informational session where the public is encouraged to ask questions and staff and/or board members can respond.

This option is almost a hybrid position between the status quo and the option 3, allowing board members to have a back-and-forth conversation with the public during the meeting. However, the informational meeting before the public hearing may become a quasi-public hearing where the board members would be allowed to interact and respond to the public during the meeting. This option is not recommended because holding this type of meeting before the actual public hearing may nullify the need to hold the hearing. This option could also put board members and staff in confrontational positions with the public who may hold differing opinions on the proposed government action. Putting together quality informational packets that have the full information on the topic to be discussed at the public hearing would be a way to ensure the public has all the information prior to holding the public hearing. The public officer running the meeting may also provide a prepared description or statement prior to opening the meeting for comment which will also provide answers to the public's questions and concerns. Utilizing statements and informational packets and having board members respond to constituents minimizes the need for public interaction prior to the public hearing.

The following organizations use this type of public hearing process: Mentioned in Michigan's Department of Environment, Great Lakes and Energy handbook.

Policy Option 3

Allow board members to have conversations, answer questions and respond to the public during the public hearing.

This policy option is not recommended because it minimizes the number of people and the time given to the public to have their say in the matter. It is also not recommended due to the risk the board takes in placing board members and staff in confrontational positions with the public. The added perceived transparency is negligible if staff and board have put together quality informational packets that have the full information on the topic to be discussed at the public hearing. Ensuring the public has all the information prior to holding the public hearing and allowing the public officer running the meeting to provide a prepared description or statement prior to opening the meeting for comment allows for government transparency without the risk for negative public interactions. The public also is still able to contact their board members through email, phone calls, and scheduled appointments if there is a need.

Research Question

Could Board members ask questions of presenters? Could Board staff offer explanations or information about how and why Board rule or amendments were developed as they were? Could it be a learning experience and information gathering experience for all involved?

Summary Response

In reviewing the code on public hearings, it does not prohibit board members or authorized staff from interacting with the public during a public hearing. Board members or staff could offer explanations or information to the public on proposed changes to rule and practice during the public hearing. This however is not a common practice and is not recommended based on the review of the purpose of a public hearing and a review of other agencies use of the public hearing. Traditionally the public hearing is a way for the government to receive the public's input and feedback on proposed changes. Board members and the public traditionally have used other mechanisms to respond to the public regarding proposals, email, appointments and phone conversations with constituents are the main mechanisms of interacting publicly on proposed government actions.

Background/Research Findings

Public hearings are a tool where the Government can gauge public sentiment and gain input from the general public on proposed plans of action and policy ([Utah public Notice website](#)) Normally public hearings are used by the government to receive input from the public. The meetings are set to a specific date time and place and are advertised publicly to gain as much public participation as possible. The time is usually limited for the public to speak, and the meeting is usually limited to a certain length of time. At time where more public interest and participation exists than was expected, another day or time extensions can be used to allow all interested parties the opportunity to voice their comments. Participants in public hearing are normally limited in their comments to a prescribed time limit to allow all interested parties time to provide their comments. The government does not usually respond or have a conversation during this meeting to allow for all interested parties to have time to speak. In some instances, the government has policies prohibiting their participation in the meeting for that very reason.

The government has other opportunities to gather information and hold conversations or answer questions that the public may have regarding a public hearing. These opportunities include individuals reaching out to board members and staff, special meetings held such as town halls or similar meetings designed to have a question and response format, emails, and written comment, as well as press releases/conferences. Many questions can be answered before a public hearing through ensuring that the agency has put forth all information regarding its proposed action through informational packets, briefs, media press releases/conferences, and in working with concerned parties prior to the meeting. Public hearings should not be a time of discovery for the public, the public should have all the information up front. Another way of showing the public that their input has been received is by incorporating as many of the suggestions and input as is possible that would still allow the proposed purpose or outcome to occur.

Common practice is to have a public hearing as a listening session by the government rather than an interactive session. One reason why this is a common practice is that a public hearing can be used as a tool to gauge public sentiment on a proposed action, if no one shows up it can be taken as the public's acceptance but if lots of people show up then their sentiments will be made clear in the comments they provide. Similarly, time is limited and interaction between the board and the public can quickly cut down on the time allowed for others to speak. These interactions may be perceived as favoritism (if one is allowed to have more time to ask and clarify questions through conversations with the board) or an attempt to circumvent the public's ability to comment (if interested parties are not allowed time due to the government taking time away to respond). Another reason government agencies do not interact

with the public at hearings is to protect board members and staff from traps set by parties that have ill will toward specific members or the organization.

Public hearings are required by law in certain circumstances. Utah agencies are required to hold public hearings on a proposed rule, amendment or repeal of a rule if it is “required by State or Federal mandate, another state agency, ten interested persons, or an interested association with not fewer than ten members request a public hearing: and the agency receives the request in writing not more than 15 days after the publication date of the proposed rule” (Utah Code Section [63-46a-5](#)). Agencies may also hold hearings during the public comment period of the proposed rule, during their regularly scheduled board meetings and public comment periods and before items are addressed by the board.

In summary public hearings are important opportunities for the public to be able to comment and the board to receive the public’s opinion. The board has mechanisms to address the public’s questions and concerns through processes outside of a public hearing.

Sources

[American Planning Association](#)

[Davis County School District](#)

[Davis School District on Policy Adoption](#)

[Granite School District Notice of Public Hearing](#)

[Granite School District Policy on Public Hearings](#)

[Jordan School District GP110 Public Participation at Board Meetings](#)

[Jordan School District GP111](#)

[Jordan School District GP115](#)

[Michigan department of Environment, Great Lakes and Energy](#)

[Park City Citizens Public Hearing Handbook](#)

[Salt Lake City Code 21A.10.015 Public Engagement](#)

[Salt Lake City Planning Commission Policies and Procedures](#)

[Salt Lake City School Board Administrative Procedure of Public Comment](#)

[Salt Lake City School District](#)

[Salt Lake City School District Redistricting and Closing of Schools Public Hearing Process](#)

[US Environmental Protection Agency \(EPA\)](#)

[Utah Administrative Rules R15-1](#)

[Utah Code Section 11-14-318 Public Hearing Required-- Notice](#)

[Utah Code Section 53G-4-402 Powers and Duties Generally](#)

[Utah Code Section 63-46a-5 Public Hearings](#)

[Utah Code Section 63G-3-302](#)

[Utah Public Notice Website](#)

[Utah Transit Authority Board Policies](#)