

RESOLUTION 2023 - 10

A RESOLUTION REVISING BOARD OF COUNTY COMMISSIONERS'
RULES OF PROCEDURE

WHEREAS, the Board of County Commissioners wishes to adopt uniform rules of procedure for the conduct of County business; and,

WHEREAS, the intent of the Board of County Commissioners in adopting Rules of Procedure is to codify standard practices relating to public meetings, public hearings, and work sessions; and,

WHEREAS, the Board of County Commissioners encourage public participation in the affairs of the County and the proposed Rules of Procedure outline the ways in which public participation will be secured; and,

WHEREAS, the Board of County Commissioners have statutory guidelines to follow for the conduct of public meetings, public hearings, open meeting requirements, and general organizational requirements that are reflective of the Rules of Procedure proposed herein; and,

WHEREAS, the Board of County Commissioners held a public hearing on February 14, 2023, to hear public comment regarding revising Rules of Procedure.

NOW, THEREFORE BE IT RESOLVED that the Board of County Commissioners adopt these attached Exhibit A revised Rules of Procedure in order to accomplish the goals listed above; and

BE IT FURTHER RESOLVED the attached Rules of Procedure as adopted will specify the manner in which public meetings, public hearings, work sessions, and the conduct of general County business will be carried out. Modifications to the Rules of Procedure shall require a public process and formal action by the Board of County Commissioners.

DATED this 14th day of February, 2023.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Tom Rolfe, Chairman



ATTEST:



Amy Reeves, Clerk of the Board



Exhibit A

LEWIS AND CLARK COUNTY RULES OF PROCEDURE

A. PRESIDING OFFICER OF THE BOARD

In accordance with Section 7-4-2109 MCA, the Lewis and Clark County Board of County Commissioners (BOCC) must elect one of its members Presiding Officer. The Presiding Officer shall preside at all meetings of the board, and in case of the Presiding Officer's absence or inability to act, the members present shall select one of their number to act temporarily as Presiding Officer. The Lewis and Clark County Commission shall select by motion and vote one of their members to serve as Chair at the first regularly scheduled public meeting in January of each year. The Board may also designate a Vice Chair by motion and vote to preside in the absence of the Chair.

The Presiding Officer of the Commission shall be the Chair. During the absence of the Chair, the Vice Chair shall discharge the duties and exercise the powers and authority of the Chair. The Presiding Officer shall preserve strict order and decorum at all meetings of the Commission and confine members in debates to the question under consideration. The Chair shall state, or cause to be stated, every motion coming before the Commission, announce the decision of the Commission on all subjects, and decide all questions of order, subject, however, to an appeal to the Commission, in which event a majority vote of the Commission shall govern and conclusively determine such questions of order. The Chair shall be vested with authority to sign all items requiring signature adopted by the Commission during the meeting in which the Chair presided. In the event of the absence of the Chair, the Vice Chair or Member may sign on behalf of Lewis and Clark County.

B. MEETINGS

The Lewis and Clark County Board of County Commissioners shall hold regular meetings in accordance with the provisions of Title 2, Chapter 3 of the Montana Code Annotated. As such, the Commission will convene Regular Public Meetings every Tuesday and Thursday in Room 330 of the City-County Building, 316 N. Park Avenue in Helena, Montana, unless the Commission determines a quorum cannot be achieved or pending action does not require a regularly scheduled meeting. Meetings on Tuesday and Thursday will generally begin at 9:00 am. Meetings may also be held at alternative locations at the direction of the Commission. The conduct of all Public Meetings and Hearings will be generally according to *Robert's Rules of Order* (as revised.)

The audio recordings constitute the official minutes when ever possible.

1. **Public Hearings:** Public Hearings conducted by the Board of County Commissioners shall be held in the Commission Chambers, 316 N. Park Avenue, Helena, Montana, or in an alternative location as duly noticed to the public. Any hearing may be rescheduled or adjourned to a later date and time.

2. **Exceptions to Open Public Meetings:** Any exception to open public meetings will be conducted in compliance with the provision of M.C.A. 2-3-203.
3. **Work Sessions:** Work Sessions may be held as needed or scheduled by the Chair of the Commission or at the request of any two (2) members of the Board of County Commissioners. Work sessions allow staff and Commission interaction but will be limited for discussion purposes only. NO DECISIONS SHALL BE MADE IN WORK SESSIONS. At the Commission's discretion, public comment may be received during the Work Session.
4. **Calendar Meetings:** The Board of County Commissioners may convene weekly Calendar Meetings to establish schedules in advance. These meetings are informational only, and may involve updates from the Chief Administrative Officer or other designated staff as required. In general, Calendar Meetings will be conducted each Monday at 9:00 am in the Commission Conference Room of the City-County Building, 316 N. Park Avenue, Helena Montana, or in an alternative location as required.

C. POWERS AND DUTIES

The Commission shall constitute the governing body, with power to make and pass all resolutions, orders, bylaws, or other action not repugnant to the Constitution of the United States or the State of Montana, or the powers specifically vested in the County Commission in the Montana Code Annotated.

1. **Resolutions - Requirements:** Each proposed resolution or action item under consideration by the Board of County Commissioners shall be introduced in writing and shall not contain more than one comprehensive subject, which shall be clearly stated in its title, except general appropriation actions which may contain the various subjects and accounts for which monies are to be appropriated.
2. **Agenda:** All reports, communications, resolutions, contract documents, or other matters to be submitted to the Commission, shall be submitted to the Commission Office by noon on the Thursday proceeding the Tuesday public meeting or by noon on the Monday proceeding the Thursday public meeting. In the event of implementation of a centralized agenda software system, and/or a Public Meeting falling on a legal holiday, the dates for submission may be changed. Late submissions deemed to be in the County's best interest may be approved by the Chief Administrative Officer. The order of the agenda shall stand as advertised, unless the Chair determines at the beginning of the meeting that any item should be re-organized to allow for expediency and public convenience.
 - a. The Chief Administrative Officer (CAO) shall be responsible for the preparation of the regular meeting agenda. The Chair or any two members of the Commission may place an item on the regular agenda. Regular Public Meeting agendas must include an opportunity to comment on non-agenda items under the jurisdiction of the Board of County Commissioners.

- b. The Chief Administrative Officer (CAO) shall be responsible for the placement of agenda items as either Action Items or Consent Items. Items placed in Consent shall typically consist of small contracts, administrative items, and perfunctory duties of the County. Consent Agenda Items shall be acted on as a whole, but are subject to clarifying questions raised by the Commission. Any Commissioner may remove a Consent Agenda Item for placement on the Regular Agenda by indicating, at the beginning of the public meeting, a request to remove. Removed consent agenda items will be placed at the beginning of the regular agenda and will require individual motion and vote to approve.
- c. The Calendar agenda shall be prepared weekly by the CAO or designee. The Chair or any two members of the Commission may place an item on the Calendar agenda for discussion purposes only.

D. OPEN MEETINGS AND EMAIL

Except as provided for in M.C.A. 2-3-203, all meetings of the County Commissioners shall be open to the public and media, freely subject to recording by radio, television and photography at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

A majority of the Commission shall not conduct synchronized email discussions involving a matter over which the Commission has supervision, control, jurisdiction, or advisory power. Synchronized email discussions are email exchanges among two or more Commissioners within minutes of each other that create the quality of simultaneity similar to instant messaging or chat room discussions. Such discussions are characterized as an active exchange of information rather than the passive receipt of information. An example of synchronized email discussions would be two Commissioners sitting at their computers and instantly exchanging emails concerning County business, whereas a passive receipt of information is where a Commissioner receives an email and responds in the normal course of time similar to responding by letter received in the mail.

1. **Call to Order:** The Chair or Presiding Officer shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the Commission to order. The Chair shall enter into the record the names of those Commissioners present in the minutes. At the Chair's discretion, the names of staff members present may be entered into the record as well.

A quorum shall consist of any two members of the Commission. If a quorum is not present, those in attendance shall be named and the meeting may adjourn to a later time. At the discretion of the Chair, a meeting may continue if participation of another Commissioner can be achieved telephonically, through video, or other appropriate measure. Commission Action shall, in circumstances where a quorum is not physically present, be limited to perfunctory or administrative actions.

2. **Rules of Debate:** Every Commissioner desiring to speak shall address the Chair, and upon recognition by the Presiding Officer, shall confine discussions to the question under debate, avoiding all personalities and indecorous language.

A Commissioner, once recognized, shall not be interrupted when speaking unless it is to be called to order, or as herein otherwise provided. If a Commissioner, while speaking is called to order, the Commissioner shall cease speaking until the question of order can be determined, and, if in order, the Commissioner shall be permitted to proceed.

Order of rotation in matters of debate or discussion shall be at the discretion of the Chair or Presiding Officer.

A motion to reconsider any action taken by the Commission must be made on the day such action was taken, or at the next regularly scheduled Commission meeting. Such motion shall be made by one of the prevailing side, but may be seconded by any Commissioner, and may be made at any time and have precedence over all other motions or while a Commissioner has the floor. It shall be debatable.

Nothing herein shall be construed to prevent any Commissioner from making or remaking the same or any other motion at a subsequent meeting of the Commission, but the matter must be an agenda item and must conform to the notice requirements established by Montana Code Annotated.

3. **Order of Presentation and Public Participation in Regular Meetings:**

- a. The procedure in which items are presented to the Commission shall be as follows:

1. The Chair or Presiding Officer shall present the agenda item to the Commission.
2. Staff or designated parties may present a background report on the matter for discussion. If the agenda item is a public hearing, the Chair will open the public hearing prior to staff presentation. Upon conclusion of a staff report, Commissioners may ask questions for the purposes of understanding and clarification.
3. Comments from the applicant, or his agent, shall be heard by the Commission. At the discretion of the Chair, presentations may be limited to a defined period of time if advanced notice was provided of any time constraints.
4. After being recognized by the Chair, a Commissioner may direct questions to the staff, the applicant or the applicant's agent(s).
5. Members of the public and/or their agent may be invited to present testimony, comment, or other evidence. To be recognized, each person desiring to give testimony or comment shall step to the podium and, after being recognized,

give his or her name and address before testifying, commenting or presenting other evidence. The audience presentation or testimony may be limited at the discretion of the Chair if advanced notice is provided.

6. After being recognized by the Chair, a Commissioner may direct a question to any person so testifying, commenting or providing other evidence for purposes of clarification. The Commission cannot compel the public to respond to any inquiry from any Commissioner.
7. Following public comment, staff shall be given the opportunity to rebut or comment on any testimony or other evidence.
8. Following staff comment or rebuttal, the applicant or the applicant's agent will be given the opportunity to rebut or comment on any testimony or other evidence. The applicant's comments and rebuttal may be limited at the discretion of the Chair.
9. Following applicant's comment or rebuttal and any further questions, the Chair will close the Public Hearing/meeting/public comment and bring the agenda item to the dais for discussion, motion and vote.
10. After being recognized by the Chair, a Commissioner may direct questions limited to the rebuttal testimony and evidence.
11. The Chair or any other Commissioner may enter into the record all correspondence that has been received but was not yet provided to the Commission.
12. The Commission may continue the discussion to a date certain, close discussion and vote on the matter, or close the discussion and continue the vote to a date certain. Giving due consideration to any information presented in the public hearing or public meeting, the Commission may elect to designate a date specific as decision day in order to fully contemplate any information presented in the meeting.
13. The Commission, upon the request of a Commissioner who is to be absent from a meeting at which a public hearing on a particular item of interest is scheduled, may reschedule the public hearing until a full Commission is present, unless precluded from doing so due to statutory time constraints.
14. The Commission, upon the request of any applicant or the applicant's agent who is to be absent from a meeting or hearing on a particular issue of interest is scheduled, may reschedule the public meeting or hearing until the applicant is

able to be present, unless precluded from doing so due to statutory time constraints.

- b. All testimony and evidence shall be directed to the Chair. No person, other than a Commissioner and the person recognized as having the floor shall be permitted to enter into the discussion. No question shall be asked of a Commissioner except through the Presiding Officer.
- c. The Commission may ask staff for its recommendation.
- d. In the event the applicant does not appear at the scheduled time and place, unless the applicant has waived his or her appearance in writing, and which waiver has been accepted by the Commission, or unless the matter is submitted as a consent item, the matter may be continued to the next regular meeting, public hearing date or other date certain, unless precluded from doing so due to statutory time constraints.
- e. For all Public Hearings involving land use decisions, the Commission will wait a minimum of one week before making a decision whenever requested by a member of the Commission unless a decision is required due to statute or other law.
- f. Commissioners are urged to state reasons for their decisions, particularly on land use issues; the record must reflect reasons for all decisions involving any variances.
- g. The Commission shall not be bound by the strict rules of evidence, but may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or evidence.
- h. The Chair shall rule on all questions relating to the admissibility of evidence with advice from the County Attorney, which may be overruled by a majority vote of the Commission.
- i. A Public Hearing or Public Meeting which has been formally closed for all public input may not be reopened and no additional evidence or testimony from the public shall be received or considered. If additional information is required from the public before a decision can be made, the Commission upon motion duly made, seconded and passed, may call for additional Public Hearing which shall be duly noticed, specifying date, time, place, and subject matter of hearing. This paragraph does not preclude the Commission, after a hearing held on a preliminary plat, pursuant to Section 76-3-605, MCA, from consulting the applicant or the applicant's agent about conditions or other mitigation required of the applicant. If the motion is made to reopen the Public Hearing prior to close of the agenda item in which the hearing was closed, the requirement to provide public notice does not apply; the Public Hearing may be reopened and the additional input provided prior to moving to the

next agenda item. In land use decisions, the Commission shall determine if an additional Public Hearing demands the item be remanded back to the Planning Board for a duly noticed Public Hearing.

4. **Decorum:** While the Commission is in session, the Commissioners must preserve order and decorum, and a Commissioner shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Commission or its Presiding Officer.

Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the Commission shall be forthwith barred from further audience with the Commission by the Presiding Officer, unless permission to continue is granted by a majority vote of the Commission.

The Commission shall not debate, in a heated or argumentative manner, with a member of the public presenting testimony during a public hearing or regular meeting.

Speakers shall only address the agenda item before the Commission. Any person speaking on an agenda item not before the Commission shall be called out of order.

E. BOARDS

The Board of County Commissioners may create and establish boards, committees, and commissions as authorized by Montana Code Annotated. Membership on any board, committee or commission under the purview of the Lewis and Clark County Board of County Commissioners will be at the discretion of the Board of County Commissioners. For the purposes of cooperation and community involvement, individual members of the Board of County Commissioners may serve as liaisons, members, or advisory members of internal or external boards either by individual appointment or by mutual consent of the Board of County Commissioners. Commissioners serving on internal or external boards do not represent Lewis and Clark County.

The Commission may adopt policy regarding board appointments. All resolutions, bylaws, or guiding documents relating to County authorized boards must be in conformance with the Lewis and Clark County Board Policy. Whenever any conflict arises between internal board documents and County Commission Board Policy, the Commission Board Policy will control.

F. SEVERABILITY

If any portion of this Resolution or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions of this resolution which may be given effect without the invalid provisions or application and, to that end, the provisions of this resolution are declared to be severable.

ADOPTED BY BOARD OF COUNTY COMMISSIONERS AS REVISED ON FEBRUARY 14, 2023.