

**McCALL AREA**  
**PLANNING AND ZONING COMMISSION**

Special Meeting Agenda  
January 18, 2022 – 4:30 p.m.  
McCall City Hall/Legion Room  
216 East Park Street, McCall, ID 83638

Due to McCall’s commitment to “flatten the curve” in response to the COVID-19 Emergency and ensuring that the City’s Business continues, this meeting will be a virtual meeting. Use a phone to call 208-634-8900, when prompted enter Conference ID 687 010 518#. If there are any questions, contact Brian Parker, City Planner (contact provided below).

The Meeting Room Occupancy Capacity subject to the 6-foot social distancing recommendation of Centers for Disease Control and Prevention in addition to the Commissioners and Staff who are anticipated to be in attendance is 10.

Social Distancing will be enforced.

The first 5 persons who appear will be allowed to be present in the meeting location. All other persons may be in attendance virtually via Teleconference.

COMMISSION MEETING – Begins at 4:30 p.m.

**CALL TO ORDER AND ROLL CALL**

**1. NEW BUSINESS**

Commission Training: Diane Kushlan and Associates and Bill Punkoney will be leading a training for the Commission and staff on How to be an Effective Commissioner and the Basics of Land Use Planning. Not an action item.

**2. ADJOURNMENT**

American with Disabilities Act Notice: The Planning and Zoning Commission meeting room is accessible to persons with disabilities. If you need assistance, contact City Hall at 634-7142. Please allow 48 hours.



*City of*  
**McCall**  
IDAHO

McCall Area Planning & Zoning  
Commission Training Workshop  
January 18, 2022

**Presented by:**

William L. Punkoney, White, Peterson, Gigray & Nichols  
Diane Kushlan, Kushlan | Associates

# Workshop Topics

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Rules for quasi-judicial actions

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How to have successful meetings and make good decisions

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Robert's Rule of Order – How to make motions

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The authorities for planning in Idaho

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Roles and relationships of planning decision-makers

# Rules for Quasi-judicial Actions

Conflicts of Interest

Un-biased

Ex Parte Contacts

Open meeting

Public Hearing

Decision on the record

Findings and Conclusions

# Rules for Quasi-judicial Actions

## Conflict of Interest

- No economic interest in decision
- Disclose in advance
- Step down- no participation in the proceedings

## Un-biased

- Actual or display bias
- Must be impartial and disinterested

## Ex-parte Contacts

- No discussions outside the hearing
- Disclose in quasi-judicial (OK in legislative decisions)

# Rules for Quasi-judicial Actions

## Open Meeting

- Quorum required
- Public notice
- No sequential meetings
- Meeting open to the public

## Public Hearing

- Notice required
- Right for individuals to be heard

## Decision on the Record

- Transcribable record
- Individuals identified
- Record of all written materials, maps and exhibits

# Finds of Fact, Conclusions of Law, Conditions and Decision

## Findings of Fact/ Conclusions of Law

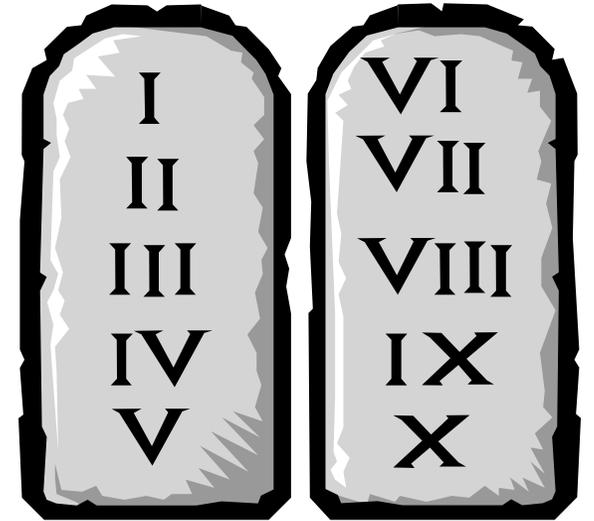
- Understand the code requirements;
- Identify facts relevant to the code; disregard what is not relevant to your code regulations.
- Link the facts to conclusions of law
- Conclusions must be supported by the findings of fact.

## Conditions and Decision

- Conditions
  - Connect to time or action
  - Nexus and proportionate
  - Avoid the grocery list approach
- Decision must be supported by the findings, conclusions, and conditions.

# Ten Commandments of Good Quasi-judicial Decision-making

1. Follow the Code
2. Avoid politics
3. Be politically correct and dignified
4. Consider all the evidence
5. Make a good record
6. Make written findings and conclusions
7. Support the decision with real evidence
8. Impose only lawful conditions
9. Do not invade the province of staff
10. Think like a judge, act like a judge and decide like a judge.



# Successful Meetings and Decisions



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## 1. Preparation.

- Have time to prepare.
- **Read and review all the material.**
- Ask questions.
- Jot down notes.

## 2. Staff Support

- Timely
- Accurate
- Objective
- Clear and concise

# Successful Meetings and Decisions

## 3. Agenda

- Available
- Followed

## 4. Minutes

- Summary action minutes only
- Do not waste time on minutes

## 5. Role of Chair

- Most critical role
- Sets the tone and maintains control
- Maintain perspective, big picture
- Morale builder, cheerleader
- Create cohesion, bridging differences
- Expert in parliamentary procedures



# Successful Meetings and Decisions

## 6. Public Hearing

- Have rules, available to the public and stick to them
- Keep it formal but comfortable
- Speak through the chair

## 7. Ask questions

## 8. Avoid questions of staff during the public testimony

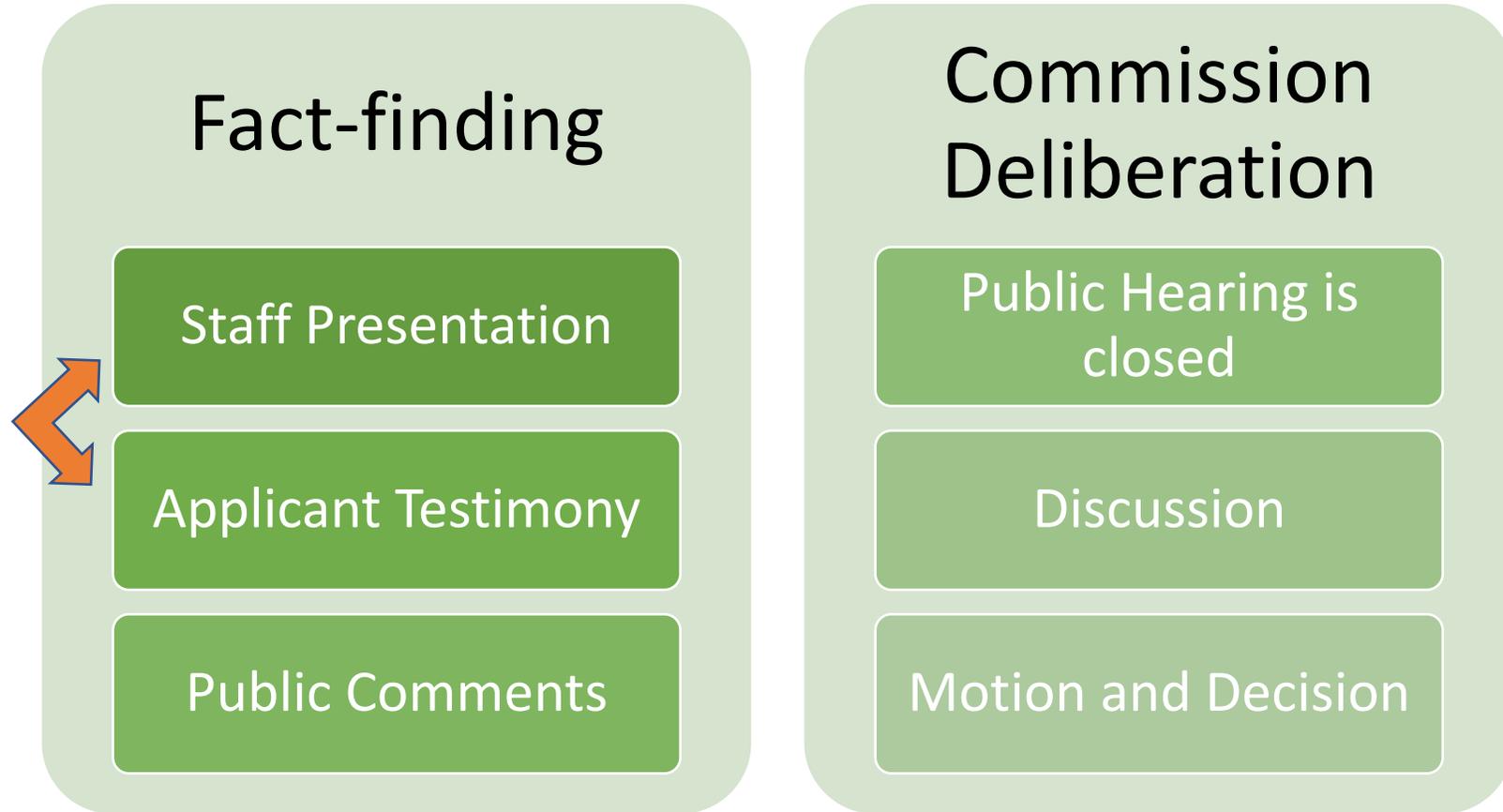




## Questions

- Do you have enough time to prepare for meetings?
- Is the format of the meetings meet your needs?
- Any suggestions to staff?
- Do you have an opinion about the schedule and timing of applications? (Do you feel like Lucy and Ethel in the chocolate factory?) <https://www.youtube.com/watch?v=NkQ58I53mjk>

# Two Phases of Public Hearings



# Staff Presentation

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Basic facts about the application or proposal

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Relevant planning policies and code provisions

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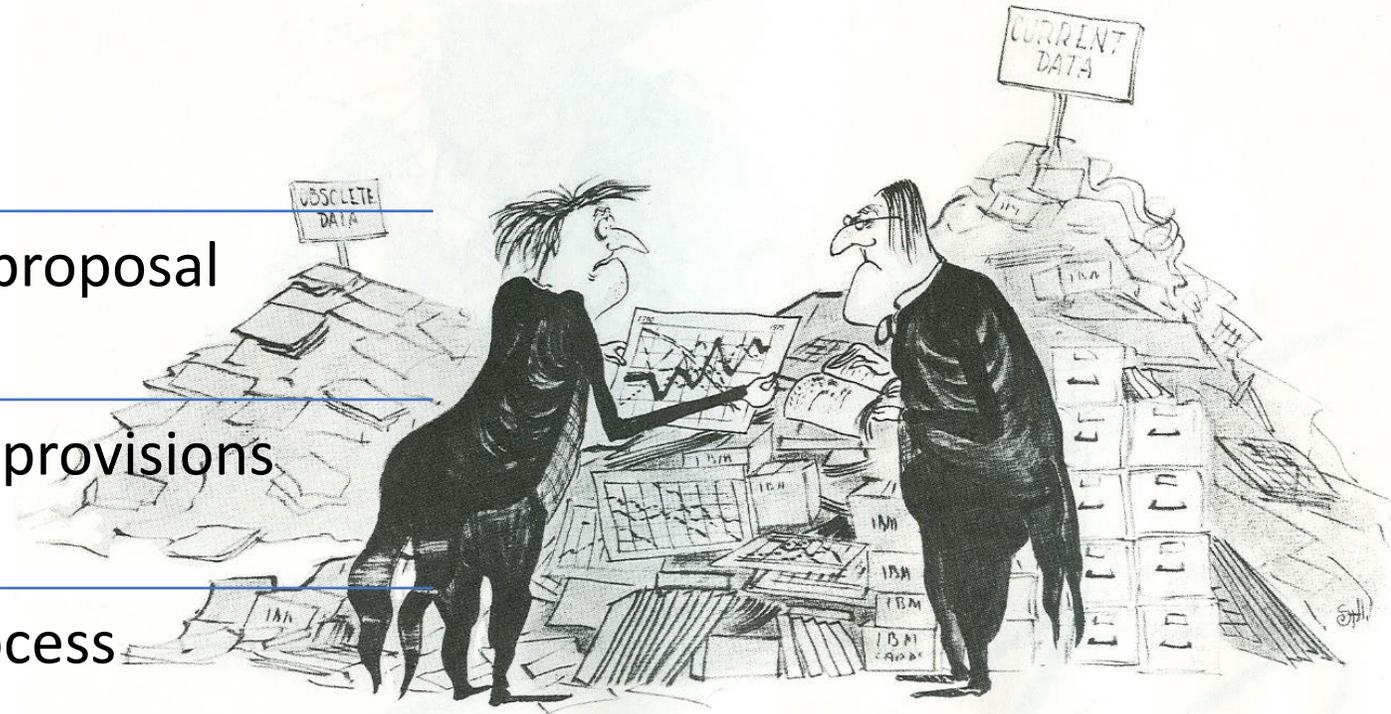
Information gathered during the process

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Recommendations

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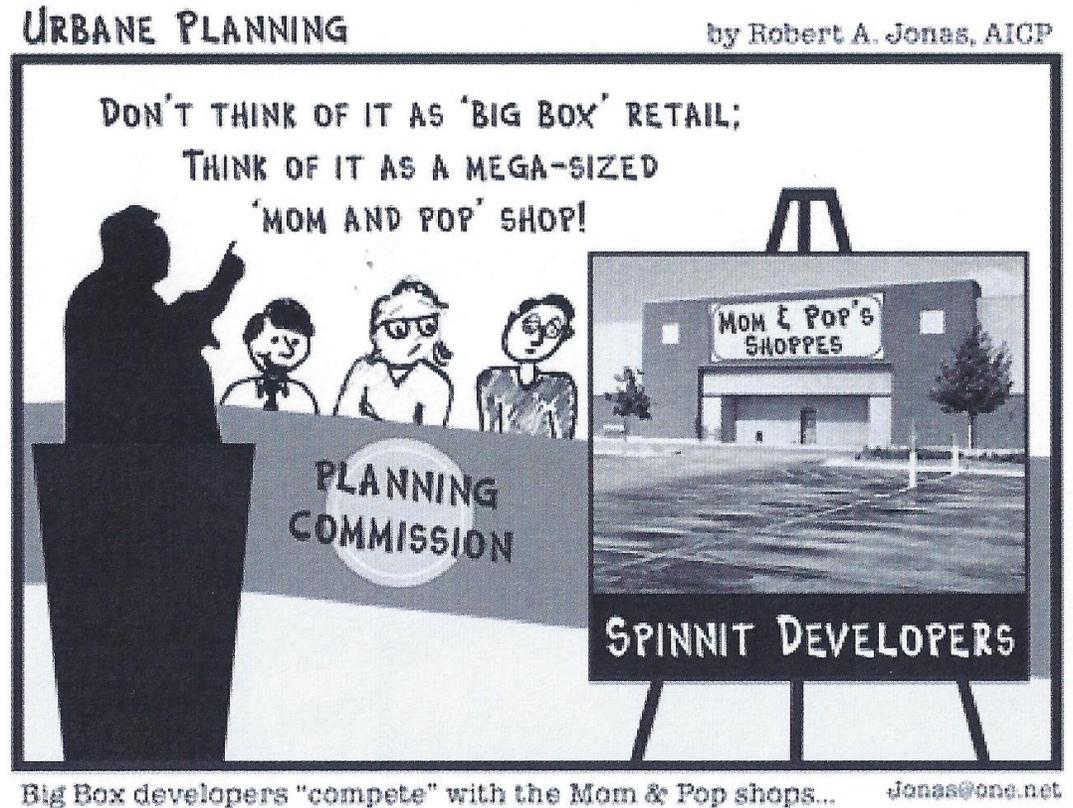
Any additional information the commission should seek during the application and public testimony



*Do You Honestly Believe We Really Have Enough Information to  
Justify a Decision?*

# Applicant Testimony

- Stick to time limits (10 minutes)
- Require applicant to focus
- Ask clarifying questions
- Do not be intimidated by experts and attorneys
- Do not give deference to those you know





# Public Comments

- Use sign-up sheet
- Must be recognized by chair, speak from podium and provide identity
- Stick to time limits (3 minutes)
- Testimony in support, in opposition, neutral
- Encourage fact-based testimony and reasons for position
- Discourage duplication
- Provide spokesperson extra time

# Commission Discussion



## ● Preparation

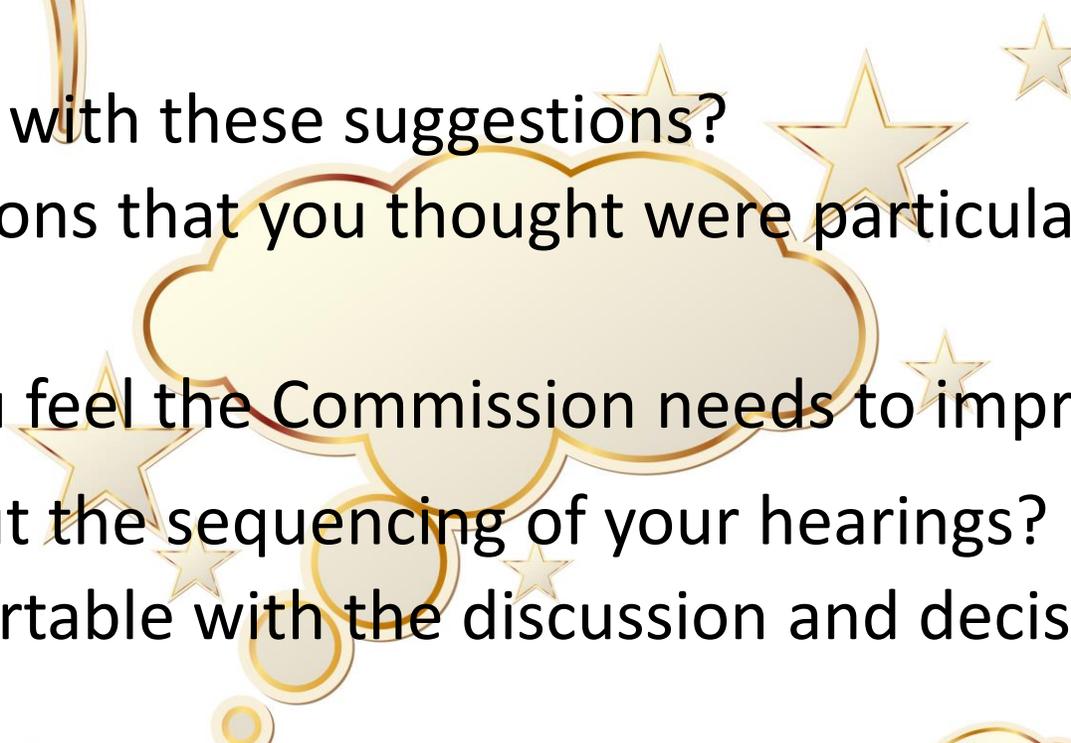
- Active listening
- Take notes
- Ask meaningful questions

## ● During the Commission Discussion

- Participate
- Ask for clarification
- Monitor “air time”.
- Remember the record
- It is Commission Discussion-not a dialogue with staff or the public.
- Deliberate not negotiate
- Keep an open mind, but express disagreement – silence means consent.
- Do not poll- work toward consensus-not full agreement.
- Unanimous decision is not necessary.

# Questions?



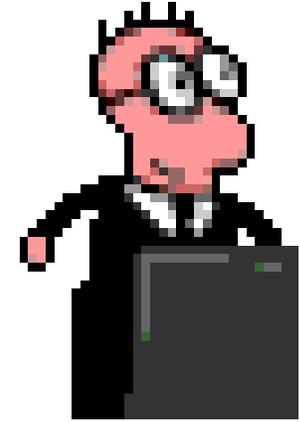
1. Any disagreement with these suggestions?
  2. Are there suggestions that you thought were particularly important?
  3. Any areas that you feel the Commission needs to improve?
  4. Any opinions about the sequencing of your hearings?
  5. Is everyone comfortable with the discussion and decision process?
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Comments?



# Making Motions-General Guidelines

- Staff prepared motions
- Follow parliamentary procedures
- Speak clearly and concisely
- Stay on the subject
- State motion affirmatively, “I move that we....”
- One motion at a time.



# Making Motions-Basic Outline

1. “Move to...” and then describe the action
  - A. Approve
  - B. Disapprove
  - C. Approve with conditions
2. If there are conditions:
  - A. State them
  - B. Reasons for the condition
3. Motion is seconded
4. Discussion on the motion
5. Chair calls the Question
  - A. Asks if there is a need to re-state the motion
  - B. Restates the motion or has recorder do so
6. Vote on the motion



“Hold that insightful legal point until we’re back from commercial.”

# Making Motions to Amend

## 1. Casual or friendly amendments

- a. Editorial changes to the main motion
- b. Motion-maker and second agrees

## 2. "Motion to amend..."

- a. More substantive or clarification
- b. Amended motion is seconded
- c. Voted on before primary motion

## 3. Substitute Motion

- a. An alternative to the main motion
- b. Second required
- c. If passed, the main motion dies
- d. Voted on before primary motion



# Other Motions

1. Chair calls the question on the motion

**\*\*\*Only the Chair can call for the Question as an Individual**

2. “Move the previous question”

a. Requires a second

b. Stops discussion until motion is acted upon

c. If it fails, goes back to discussion on main motion

3. Motion to table

a. Requires a second

b. Stops discussion until motion is acted upon

c. If it passes, a new motion is required to re-open discussion

d. If it is not acted upon by the end of the meeting, new noticing is required for a subsequent meeting





# Other Motions

3. Motion to continue or remand back to staff
  - a. Requires a second
  - b. Continue to a date certain, does not require re-noticing OR
  - c. Postpone indefinitely
4. Motion to reconsider
  - a. Made by someone who voted in the majority on the original decision
  - b. Requires a second by anyone
  - c. If passed, sets aside previous action and bring the issue back before the Commission.

# Cities and Counties are Creatures of the State

Cities and Counties are limited in their powers



- The legislature has the absolute power to change, modify, or destroy local government powers.
  - Only those powers **expressly** granted. (Dillon's Rule)
  - Only those essential to the accomplishment of their purpose.
- Any fair reasonable doubt about the powers of the city or county is resolved **against** the local jurisdiction
- Idaho has been ranked **#1** in the limitation on local discretion.

# Idaho Authorities to Plan

## Article 12 of the Idaho Constitution

- Grants police power to cities
- The police power includes the authority to **zone**.

## Idaho Code §67-65 Local Land Use Planning Act

- Mandates that cities and counties plan and implement plans

## Idaho Code §50-13 Subdivision

- Standards and processes for subdivisions

## Idaho Code §76-8201-8216 Development Impact Fee

- Impact Fees for financing public improvements

## Idaho Code §50-223 Annexation

- Authority for cities to annex

## Idaho Code §55-2101-2109 Uniform Conservation Act

- Authority to create easements that restrict land use

# Local Land Use Planning Act

(Idaho Code §67-65)



- The authority to plan
- The statutory requirements

## Enumerates powers and mandatory planning duties of cities and counties

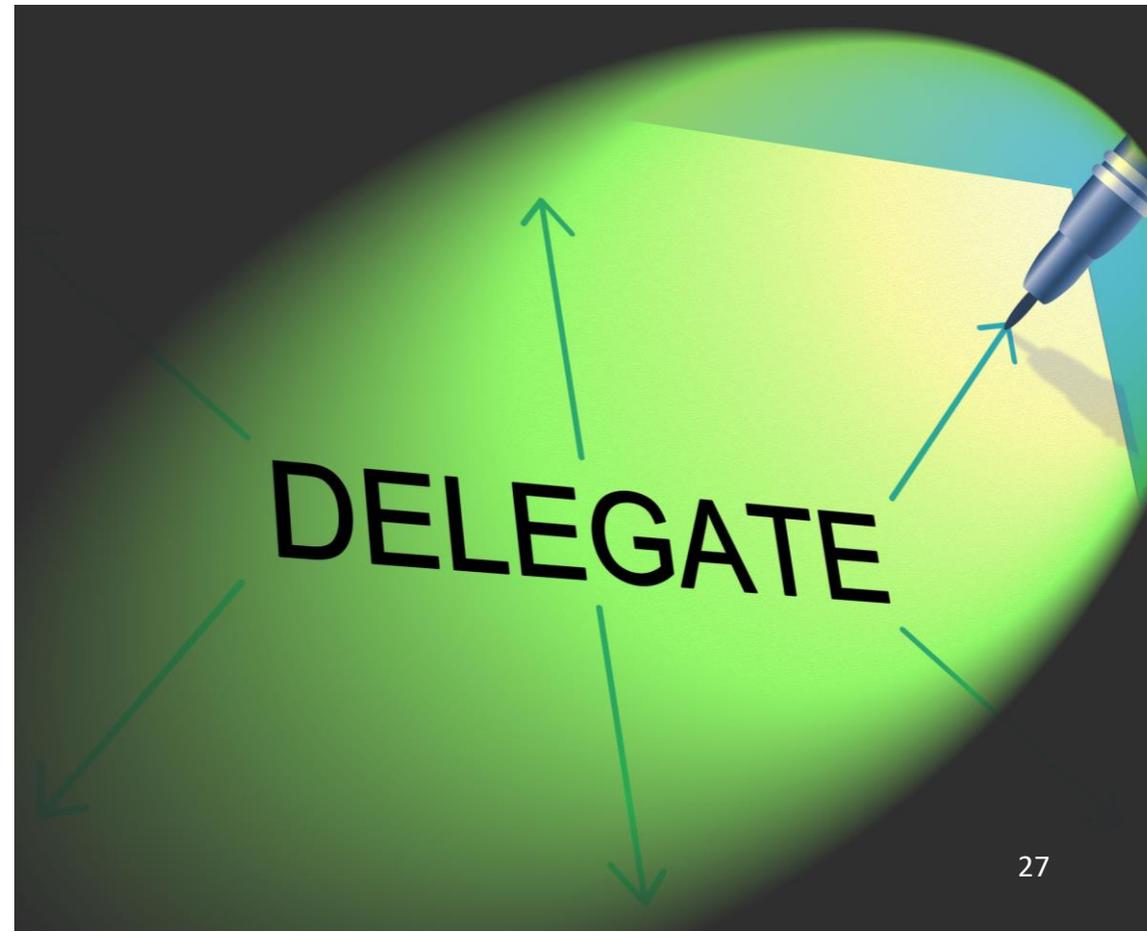
- Prepare and implement a Comprehensive Plan.
- Adopt ordinances for zoning and subdivisions.
- Adopt procedures for permits.
- Adopt standards for development.
- Provide for notice, public hearing, and record of hearings.
- Issue decisions in the form of findings of fact and conclusions of law.
- Create and maintain a transcribable record of all proceedings.

# Authority to plan is granted to the Elected Officials which can delegate some responsibilities

## **McCall Municipal Code Section 3.12.01 (B)**

By agreement, the city of McCall council and the board of Valley County commissioners assign to the McCall Area planning and zoning commission jurisdiction which consists of the matters relating to lands outside the city limits of the city of McCall and within the city of McCall area of city impact.

Can not delegate authority to adopt ordinances and Comprehensive Plans



## Responsibilities granted to the Commission by MMC

- Comprehensive Plan, amendments and implementing development regulations.
- Variances
- Conditional use permits
- Subdivisions
- Amendments to the zoning map
- Vacation of streets
- Design Review

# Decision-makers' roles

## Elected Officials

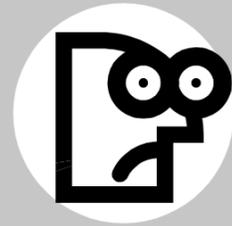
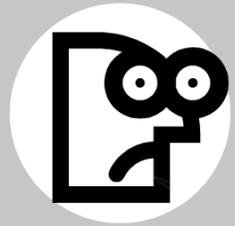
- Elected
- Leadership
- Provide direction
- Set priorities
- Make final decisions
- Adjudicate appeals
- Communicate
- Political

## Citizen Body: YOU

- Appointed
- Volunteers
- Workhorse for electeds
- Make recommendations
- Make some decisions
- Advisory –not political

## Planning Staff

- Paid
- Technical expert
- Communicator
- Facilitator
- Strategic thinker
- Problem solver
- Support for electeds and commission
- Make some decisions
- Politically astute-not political



**It's QUESTION TIME!!**

# Resources

- ❖ *Idaho Land Use Handbook*, Givens Pursley attorneys at Law; 2007.
- ❖ Association of Idaho Cities- [www.idahocities.org](http://www.idahocities.org)
- ❖ American Planning Association (APA)-[www.planning.org](http://www.planning.org)
- ❖ American Planning Association Idaho Chapter - <http://idahoapa.org>
- ❖ Planning Commissioners Journal-[www.plannersweb.com](http://www.plannersweb.com)
- ❖ The Commissioner -APA quarterly
- ❖ *The Job of the Planning Commissioner*, Albert Solnit.
- ❖ *The Planning Commissioners Guide*, David J.Allor
- ❖ *The Citizen's Guide to Planning*, Christopher Duerksen

**Your Staff**

WORLD  
PEACE  
THROUGH

*better*  
^

ZONING AND



PLANNING