

City of Defiance Workshop

JONATHAN WOCHER, AICP
C. GREGORY DALE FAICP
MCBRIDE DALE CLARION

I. Effective Decision Making

1. *Notice*

Notice should be adequate and timely. It should be reasonably calculated to apprise interested parties of a proposed action and afford them an opportunity to present their objections. The average person must be able to understand the notice. It must allow sufficient time for interested parties to prepare.

2. *Opportunity To Be Heard*

All parties interested in a proposed action must have the opportunity to be heard and present evidence to support their position. Hearings must be open to the public. Have rules for managing testimony – discourage repetitive testimony, encourage relevant, factual testimony, enforce time limits, etc.

3. *Full Disclosure*

All parties must have full access to information, statements and evidence relied upon by decision-makers to make their decision. Ex parte communications should be avoided. Avoid acting on information received at the last minute.

4. *Findings*

Findings are the legal "footprints" that should be left in administrative proceedings to explain how the decision-maker progressed from the facts through established policies to the decision.

5. *Unbiased Decisions*

The decision-maker should be clear of bias or prejudice. Conflicts of interest or apparent conflicts of interest must be identified.

6. *Timely Decisions*

Decisions should be made within a reasonable period of time. The decision-maker must avoid having the process used as a delaying tactic.

7. Complete Records

A full and clear record must be kept of the proceedings, including not just the deliberation of the decision-makers, but also all evidence which is offered and relied upon by the decision-makers.

8. Clear Rules

Rules for the proceedings should be set out clearly in advance and followed.

II. Findings of Fact

Remember:

- *You are not trying to decide whether you “like” a proposal*
- *You should try to put aside your own biases*
- *Your decisions must be based on facts – keep focused on relevant facts*
- *The facts must address the standards*
- *Information is not the same thing as “facts”*
- *Weighing of the evidence is your responsibility*
- *You do not have to believe everything you hear*

Try to:

- *Come to the meeting prepared*
- *Use the application process to put the burden on the applicant*
- *Use the staff report as a starting point – recommendation/no recommendation, conditions of approval*
- *Announce the rules in advance – control the meetings – rebuttals?*
- *Encourage factual testimony*
- *Have the standards in front of you*
- *Ask questions designed to get evidence related to the standards*
- *Limit personal comments*
- *Keep the evidence phase separate from the deliberation phase – when to close and continue public hearings*
- *Deliberate the facts and standards*
- *Assess compliance explicitly*
- *Make careful motions with stated reasons*
- *Specify reasonable conditions*
- *Use minutes carefully*