



CHAPTER II HEARINGS BEFORE THE BOARD

Section 1. Generally. Any person whose rights have been or will be affected by any decision, order, ruling, or other action taken by the Board or to be taken by the Board has a right to a hearing before the Board.

Section 2. Petition. Any person desiring to come before the Board for a hearing must file with the Board, in its office at 500 South Gillette Avenue, Gillette, Wyoming 82716, a petition setting forth:

- A. A concise statement of the facts on which the petitioner relies;
- B. A statement in ordinary language, setting forth the action or decision desired by the petitioner;
- C. The legal description and a plat plan of real property involved in the contest, if any;
- D. A concise request or prayer for the specific relief desired;
- E. The name, address and telephone number of the attorney for the petitioner, if any;
- F. The signature of the petitioner and attorney for the petitioner;
- G. The legal authority, if any, known at the time of the filing of the petition, upon which the petitioner relies.

Section 3. Board As Petitioner. In any matter in which the County is required to hold a hearing in which it has the burden of proof, the County shall be deemed the petitioner for purposes of these rules. Any notices or writings required by law for said hearing shall be deemed to be the petition for the County. Any objection by the other party to the petition of the County shall be served in writing at least five (5) working days before any scheduled hearing.

Section 4. Notice of Hearing. The Clerk shall cause written notice of any hearing held pursuant to these rules to be served upon each party at least ten (10) days in advance of the date set for hearing. Such notice shall include a statement of:

- A. The time, place and nature of the hearing;
- B. The legal authority and jurisdiction under which the hearing is to be held;
- C. The particular sections of the statutes and rules involved;
- D. A short and plain statement of the matters asserted. If the Clerk is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a more definite and detailed statement shall be furnished.

Section 5. Service. Service of the Notice of Hearing may be made in person, in accordance with the Rules of Civil Procedure or by certified mail, return receipt requested, addressed to any party according to the records of the County.

Section 6. Hearing Examiner.

- A. Whenever it shall appear, from statements of any party or other sources, that a dispute exists on any material facts, the Board, at its option, may delay further proceedings until all factual disputes are heard and recommendations made by a hearing examiner as provided in this section;
- B. The hearing examiner shall be the presiding officer at the hearing and shall conduct all proceedings in an impartial manner;
- C. The hearing examiner shall be a qualified member of the bar of the State of Wyoming;
- D. The hearing examiner shall make recommended findings of fact and conclusions of law to the Board in writing;
- E. The hearing examiner shall be hired by the Board and shall be entitled to a reasonable fee for his services and reimbursement of reasonable expenses incurred in connection therewith.

Section 7. Adoption of Findings of Fact and Conclusions of Law.

- A. The recommended Findings of Fact and Conclusions of Law certified by the hearing examiner under Section 6(d) of these rules shall be mailed to all parties;
- B. Any party objecting to the recommended Findings of Fact and Conclusions of Law shall present their objections at the next regular meeting of the Board following the expiration of at least 24 hours for consideration of the recommended Findings of Fact and Conclusions of Law by all parties;
- C. The recommended Findings of Fact and Conclusions of Law shall be adopted by the Board unless a majority of the members of the Board object to the same. No member of

the Board may object to the recommendations unless he shall have been present at the hearing or has read the transcript of the proceedings or heard or examined the official record of the hearing. The decision of the Board to adopt the recommended Findings of Fact and Conclusions of Law shall not be delayed longer than 20 days from the date it is first considered by the Board at a regular or special meeting called for such purpose.

Section 8. Duties of Presiding Officer. The presiding officer at any hearing shall be the Chairman, or any member of the Board authorized to act in the absence of the Chairman, or the hearing examiner as provided in Section 6(b) of these rules. The presiding officer shall have authority and power to:

- i. Administer oaths and affirmations;
- ii. Issue subpoenas;
- iii. Rule upon offers of proof and receive relevant evidence;
- iv. Take or cause depositions to be taken in accordance with the provisions of the Wyoming Administrative Procedures Act and the rules of the Board;
- v. Regulate the course of the hearing;
- vi. Hold conferences for the settlement or simplification of the issues;
- vii. Dispose of procedural requests or similar matters;
- viii. Shall cause Findings of Fact and Conclusions of Law to be finalized and filed with the Clerk;
- ix. Shall cause a written decision and order to be made and filed based upon the Findings of Fact and Conclusions of Law;
- x. May recess the hearing or grant continuances for good cause;
- xi. May require written briefs from any party clarifying its legal or factual position;
- xii. May declare that any matter is being taken under advisement and that a decision will be announced at a later date, not to exceed 20 days;
- xiii. Punish for contempt by permanent removal from the hearing location by any person so offending;
- xiv. Take any other action authorized by law, consistent with these rules, or required to fulfill any of his duties.

Section 9. Order of Procedure at Hearing. As nearly as possible, hearings shall be conducted in accordance with the following order of procedure:

- A. The petitioner may briefly state his case and the evidence by which he expects to sustain it;
- B. The adverse party may then briefly state his defense and the evidence he expects to offer in support of it;
- C. The petitioner shall first present his evidence; the adverse party shall then present his evidence. Witnesses may only be cross-examined by the other parties or their legal representatives and may be examined by members of the Board, if present;
- D. The parties shall then be confined to rebutting evidence unless the presiding officer permits them to offer evidence in their original case;
- E. The presiding officer may, in his discretion, allow evidence to be offered out of the order as herein prescribed;
- F. Closing statements will be made in the following sequence:
 - 1. Petitioner;
 - 2. Adverse party;
 - 3. Petitioner in rebuttal.

Section 10. Witnesses at Hearings to be Sworn. All persons testifying at any hearing shall stand and be administered the following oath by the presiding officer: “Do you swear (or affirm) to tell the truth, the whole truth and nothing but the truth, in the matter now before the Board, so help you God?”

Section 11. Disposition of Case by Stipulation. Any case may be finally disposed of by stipulation, agreed settlement, consent order or default of the parties, approved by the Board. An appropriate order shall be entered in the case record.

Section 12. Applicable Rules of Civil Procedure to Apply. The rules of practice and procedure contained in the Rules of Civil Procedure of the State of Wyoming, insofar as the same may be applicable and not inconsistent with these rules or the laws of the State of Wyoming, shall apply in all hearings under these rules. For the application of such rules, service of the petition shall be in accordance with Rule 4 WRCP. All other notices and service of papers shall be made in accordance with Rule 5 WRCP.

Section 13. Attorneys. The filing of a petition or other similar representation by an attorney constitutes his appearance for the party for whom the representation is made. The Board must be notified in writing of any withdrawal from the case. Any person appearing before the Board at a hearing in a representative capacity, shall be precluded from examining or cross-examining any witness, unless such person shall be an attorney licensed to practice in the State of Wyoming, or

a non-resident attorney, associated with a Wyoming attorney. This rule shall not be construed to prohibit any person from representing himself in any hearing under these rules.

Section 14. County Attorney Present. In all matters before the Board, or under these rules, Chairman shall request the county attorney to be present, to assist and advise the Board and to represent the County.

Section 15. Taking of Testimony - Reporter. Where oral testimony of witnesses under oath is taken in a case under these rules, the testimony shall be reported by a competent reporter or by any other appropriate means determined by the Board or the officer presiding at the hearing. The compensation of the Reporter of taking such testimony shall be at the expense of the County. Any transcription of the proceedings or any part thereof shall be at the cost and expense of any party requesting the same, except as otherwise ordered by the Board.

Section 16. Decision and Order. The Board shall make a written decision and order in all cases, which order and decision shall be filed by the Clerk in the file of the matter. The vote of the Board shall be shown in its decision.

Section 17. Appeals. Any decision of the Board is subject to appeal to the District Court and the Supreme Court of Wyoming as provided by law.

Section 18. Application of Wyoming Administrative Procedure Act. Whether or not herein set forth, the provisions of the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq. (1977 as amended) shall govern all procedure before this Board except in all statutory proceedings should a conflict arise between the statutes and these rules, the statutes shall govern and control.

Section 19. Severability. If any provision of these rules of practice or the application thereof to any matter is held invalid, the invalidity shall not effect the other provisions or applications of these rules which can be given effect without the invalid provision or application, and for this purpose the provisions of these rules are severable.

Section 20. Previous Rules Superseded. From and after the effective date of these rules and regulations all previous rules and regulations of practice of this Board shall be superseded and shall be of no further force or effect.

PASSED, APPROVED AND ADOPTED this 16th day of July, 1985

BOARD OF COUNTY COMMISSIONERS

Campbell County, Wyoming

By: Mickey D. Wagensen, Chairman

Attest

Vivian Addison, County Clerk