

Public Involvement Guidelines for Access Management

Access Management is the process used to plan the location, design, and operation of driveways, median openings, interchanges, and street connections. Median decisions can be particularly controversial. Sound public involvement strategies can facilitate open communication with affected parties.

In 2010, Section 335.199, FS, was passed requiring FDOT to notify all affected property owners, municipalities, and counties of a proposed project that will divide a state highway, erect median barriers, or close/modify an existing access to an abutting property owner at least 180 days before the design is finalized. The law requires that FDOT hold at least one public hearing in the area where the project is located and receive public input to determine how the project will affect access to adjacent properties and the potential economic impact of the project on the local business community, if applicable. Proposed access management changes that are included in the Project Development and Environment (PD&E) public hearing do not require a separate hearing during the design phase unless the proposed plans are modified after the PD&E phase. Additional information is available in FDOT Procedural Topic No. 625-010-021-h, Median Openings and Access Management.

When conducting an access management public hearing, there are two acceptable formats that may be used:

1. A virtual public hearing in conjunction with a physical site within the project area; or
2. A traditional public hearing held within the project area.

In order to determine if a virtual public hearing is appropriate, consider the following questions. If all the answers are **Yes**, then a virtual public hearing along with a physical site is acceptable. If the answer to any of these questions is **No**, then a traditional public hearing must be held.

1. Is there general acceptance for the proposed change?
2. Have meeting(s) or conversation(s) been held with local and/or county staff about the proposed change and was there general acceptance?
3. Are the people who are affected able to or willing to participate virtually through the internet?

It is not always easy to determine whether the people affected are able to or willing to participate virtually. If the number of affected people is small, then asking each one beforehand may be manageable. If the numbers are large, then surveying each one may be too time-consuming. In those cases, consider the following:

1. Do the people affected consist of an older population or retirement community that may not have access to the internet?
2. Are the people affected considered low-income and, therefore, may not have access to the internet?
3. Are there other concerns that may limit access to the internet?

If you are planning to hold the public hearing during the day, then consider that some affected businesses and their employees may not have access to a computer such as barber shops, auto repair shops, grocery stores, restaurants, etc. during regular working hours. In these cases, the meeting should be scheduled to accommodate their availability and participation. If there is concern that some in the project area may not have access to the internet, then try to hold the physical site near those populations so that they could participate. This would allow the Department to hold a virtual public hearing while accommodating those without access to the internet.

Keep in mind that a public hearing provides an opportunity for those affected to voice their opinion in a public setting and directly before Department representatives. If a traditional public hearing is held, then consider the number of affected people and appropriate time when determining the hearing location and schedule. The idea of a traditional public hearing typically implies a formal setting with a PowerPoint presentation. This format may not always be necessary. If the affected people are small in numbers, then consider holding the hearing in a small conference room at a time convenient for them. A court reporter is not required to record the proceedings; however, the hearing must be recorded and documented. Regardless of where or when the hearing is held, it must be open to the public and advertised accordingly.

Below is some guidance for holding a public hearing to ensure that all applicable state and federal laws are followed. Additional details and information is provided within **Part 1, Chapter 11 of the PD&E Manual** or in the **FDOT Public Involvement Handbook**.

Public Hearing Dates and Times

All public hearings are typically held during the work week, Tuesday through Thursday, to facilitate maximum opportunity for the public to participate in the project development process. Public hearings usually begin at 5:30 or 6:00 in the evening and last as long as needed for everyone to have an opportunity to speak. However, consider the ages of the anticipated audience, transportation availability, location access, distance, etc., when determining the time of the hearing. Access management public hearings can be held during the day as long as those affected are able to participate.

Selecting a Hearing Location

When selecting a physical site for the public hearing, consider the anticipated size of attendance, proximity to the project, easy accessibility, safety, and public transportation availability. All public hearings must be held at a site that is *ADA* compliant and provides “reasonable accommodation” and access for disabled persons wishing to attend and participate. FDOT has interpreted “reasonable accommodation” to mean that a site location and facility must be *ADA* compatible in design so that reasonable access is provided for disabled persons to attend and actively participate. When evaluating a potential site, ensure that there is sufficient disabled parking and *ADA* accessible restrooms.

The *Jessica Lunsford Act* was passed by the Florida Legislature and signed into law by Governor Bush in 2005. To assist Florida's public schools in complying with the *Jessica Lunsford Act*, school facilities, grades K-12, should not be used for public hearings while students are present. However, in rare circumstances, public K-12 schools may be used when no students are present, as confirmed by an appropriate school principal. In cases where this exception is being considered, approval from FDOT's Assistant Secretary of Engineering and Operations is required. Public schools include district public schools, charter schools, and alternative schools. Alternate facilities that may be used include colleges, universities, and private schools.

Public Hearing Notification and Advertisement Requirements

Before holding a public hearing, a letter of invitation is sent to the local governments and agencies at least 25 but no more than 30 calendar days prior to the public hearing date. The letter of invitation should be received by the elected officials and agency representatives before the public is notified by letter or advertisement. A copy of the newspaper advertisement and letter to the public should be attached.

All affected property owners, tenants, and businesses must be notified of the upcoming hearing. The names and addresses of property owners are obtained from the county property tax appraiser's office or their website. Notification must be received by property owners, tenants, and businesses at least 21 calendar days prior to the date of the hearing. They are notified through the use of invitational letters sent by mail.

Public Hearing Newspaper Display Ads

The newspaper(s) selected should have a general daily circulation within the project area. In accordance with *Chapter 339.155, FS*, FDOT must publish the public hearing advertisement a minimum of two times. The first ad should appear at least 15 days but no more than 30 days prior to the hearing. The second ad should run 7-12 days prior to the hearing. An affidavit or proof of publication should be obtained from the newspaper.

Florida Administrative Register Ad

A public notice must be placed in the Florida Administrative Register (*FAR*) at least seven calendar days prior to the hearing.

Florida Department of Transportation Website

To comply with *Chapter 120.525, FS*, notice of all public hearings should be published on *FDOT's Public Meeting Notices Website* at least seven days before the hearing. Meeting notices are typically added to the website by District Public Information Office (PIO) staff through the FDOT INFONET (see References for a link to this website). The information to be provided to the PIO includes the hearing date and time, location name and address, project description,

project website, and contact names and contact information. Include the standard nondiscrimination statement and information about ADA requests.

Press Release

Press releases should be coordinated with the District PIO.

Public Hearing Script

The formal proceedings for the public hearing are officiated by the moderator and may include a presentation followed by the public testimony portion of the hearing. The moderator is generally an FDOT employee. The information shown in italic should be contained in the public hearing presentation either as it is written or tailored to the specific project. Adapt as necessary for virtual hearings.

Good morning (or evening). The Florida Department of Transportation would like to welcome you to the public hearing for the (name of project). My name is _____. I am the District ____ Traffic Operations Engineer (or insert other title) for the Florida Department of Transportation. This public hearing is relative to State Project Number _____ and Federal Aid Project Number _____. Here with me tonight are:

- *(Name and position of persons(s) sitting next to moderator)*
- *And other representatives of the FDOT and consultant project team.*

At this time, we would like to recognize any federal, state, county, or city officials who may be present tonight. Are there any officials who would like to be recognized?

The proposed improvement involves (describe the project action including the location and limits). The purpose of this public hearing is to share information with the general public about the proposed improvement. This public hearing also serves as an official forum to give you the opportunity to express your opinions and concerns about this project.

Public participation at this hearing is encouraged and solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. This public hearing was advertised consistent with federal and state requirements. Persons wishing to express their concerns about Title VI may do so by contacting either the Florida Department of Transportation, District _____ office, or the Tallahassee office of the Florida Department of Transportation. This contact information is also provided on a sign displayed at this hearing (or on the screen if shown virtually).

We now will begin the presentation (if applicable).

If you want to make a statement regarding the proposed improvement, you will now have an opportunity to do so. If you are holding speaker's cards, please give them to meeting staff

(adapt for virtual hearings). If you have not received a speaker's card and wish to speak, please raise your hand so you can receive a card to fill out.

If you would rather provide a written statement, then all written material received at this public hearing and or the Florida Department of Transportation office located at _____ (street address) _____ postmarked no later than ten (10) days following the date of this public hearing will become a part of the public record for this hearing. All written comments should be addressed to _____ (contact person's name) _____. Comments may also be emailed to _____ (e-mail address) _____.

We will now call upon those who wish to speak. When you come forward, please state your name and address. If you represent an organization, municipality or other public body, please provide that information as well. We ask that you limit your input to ___ minutes.

Does anyone else desire to speak? If you have completed a speaker's card, please repeat your name and address. If not, state your name and address and complete a speaker's card after you've given your statement for the public record.

The verbatim transcript of the hearing's oral proceedings, together with all written material received as part of the hearing record and all studies, displays and informational material provided at the hearing will be made a part of the project decision-making process and will be available at the District Office for public review upon request.

Thank you for attending this public hearing and for providing your input into this project. It is now _____ (state the time) _____. I hereby officially close the public hearing for _____ (project name) _____. Thank you again and have a good evening.

Public Hearing Documentation

The hearing proceedings should be recorded and transcribed into a written transcript. This transcript must be signed by the FDOT moderator. Oral and written comments are a formal part of the public record. The transcript of all hearing proceedings includes FDOT's presentation (including portions that are voiced-over or pre-recorded), all public comment/testimony received, and all handouts and informational brochures used. Display materials should be retained in the project file as part of the hearing record.

Whenever a public hearing is held, the public record remains open for a minimum of 10 calendar days after the date of the hearing to allow for additional written input from attendees or others who were not able to attend the hearing. All written comments received during that period become part of the public record and are included in the hearing transcript. After the comment period, the public hearing is officially closed and the transcript is signed by the public hearing moderator.