

A RESOLUTION PROVIDING FOR PROCEDURES BY WHICH A CONFLICT OF INTEREST COMPLAINT REGARDING A PLANNING AND ZONING COMMISSIONER IS TO BE PURSUED.

AT A MEETING OF THE BOARD OF ADA COUNTY COMMISSIONERS, STATE OF IDAHO, ON THE 9th DAY OF DECEMBER, 2009, THE FOLLOWING RESOLUTION WAS UNANIMOUSLY ADOPTED, TO WIT:

**WHEREAS**, the Ada County Board of County Commissioners, pursuant to the Idaho Local Land Use Planning Act (Idaho Code § 67-6501 *et seq.*), has appointed volunteer citizens to the Ada County Planning and Zoning Commission; and

**WHEREAS**, members of the Planning and Zoning Commission are required to comply with state and local laws pertaining to avoiding and disclosing all actual or potential conflicts of interest or even the perception of bias; and

**WHEREAS**, the Ada County Board of County Commissioners desires to ensure that all members of the Planning and Zoning Commission comply with such laws, and that all applicants whose applications are before that Commission, and all interested citizens, groups or agencies receive fair and impartial hearings therein; and

**WHEREAS**, the Ada County Board of County Commissioners desires to create and publish a process whereby any person, including county employees, can anonymously bring to the attention of the Board of County Commissioners all actual or potential conflicts of interest or allegations of bias on the part of any Planning and Zoning Commissioner that will provide for a timely and thorough review of said claims.

**NOW THEREFORE, BE IT RESOLVED**, that effective upon adoption of the Resolution,

**Notifying the Board of County Commissioners**

1. If any member of the Planning and Zoning Commission believes he/she may have a conflict of interest in a pending application that may be presented to the commission for consideration; or if said member feels that there may exist a public perception that he/she cannot remain impartial in said matter; said member shall without delay submit a written letter to the Board of County Commissioners, with a copy to the Director of Development Services and the Chairman of the Planning and Zoning Commission.

Said letter must disclose the nature of the actual or potential conflict, including with specificity all the pertinent facts involved in the matter, names and contact information of persons involved or who may have information that will allow the Board of County Commissioners to make a determination.

Said letter must be signed by the commission member and must contain contact information where he/she can be contacted.

2. If any person, including any member of the Planning and Zoning Commission, the land-use applicant, or any member of the public believes any member of the Commission may have a conflict of interest in a pending application that may be presented to the commission for consideration; or if said person feels that there may exist a public perception that the commission member cannot remain impartial in said matter; said person shall without delay submit a written letter to the Board of County Commissioners, with a copy to the Director of Development Services, the Chairman of the Planning and Zoning Commission, and the named Commissioner.

Said letter must be signed by the complaining person.

3. If any employee of the Development Services Department believes a member of the Planning and Zoning Commission may have a conflict of interest in a pending application that may be presented to the commission for consideration; or if said employee feels that there may exist a public perception that the commission member cannot remain impartial in said matter; said employee shall without delay notify the Director of Development Services or the Planning and Zoning Administrator, who shall without delay submit a written letter or complaint form to the Board of County Commissioners. The Director shall deliver a copy of the complaint to the Chairman of the Planning and Zoning Commission, and to the named Commissioner.

Said letter or form shall not disclose the name of the employee who brings the matter to the attention of the Director or the Planning and Zoning Administrator.

If the employee discovers the potential conflict for the first time at the hearing, he/she shall immediately notify the attending department supervisor who will then notify the Chairman of the commission that a recess should be called. The Chairman will honor such requests immediately. The attending supervisor will inform the Chairman of the employee's discovery (the name of the employee shall remain anonymous at the employee's request). If the named Commissioner should voluntarily agree to recuse himself/herself, the Chairman shall proceed with the hearing, but the named commissioner shall not participate in any further proceedings regarding the subject application, including conversations with county staff or other commission members regarding the subject application, deliberations or voting on the application. A Commissioner who has recused himself/herself from participating in the processing of an application shall not offer testimony on the application.

If the named commissioner does not recuse himself/herself, the Chairman will thereafter follow the procedures set forth in paragraph no. 4 below to stop the hearing on the subject application.

4. If at a hearing before the Planning and Zoning Commission any person expresses a verbal concern or belief that a member of the Planning and Zoning Commission may

have a conflict of interest in a pending application that will be presented to or is being heard by the commission for consideration; or if person feels that there may exist a public perception that the commission member cannot remain impartial in said matter, the Chairman of the commission shall allow such verbal complaint to be noted on the record and shall ask the person making the allegations to complete a complaint form.

If the named Commissioner should voluntarily agree to recuse himself/herself, the Chairman shall proceed with the hearing, but the named commissioner shall not participate in any further proceedings regarding the subject application, including conversations with county staff or other commission members regarding the subject application, deliberations or voting on the application.

If the named Commissioner is present at the hearing and does not recuse himself/herself, the Chairman shall immediately cease any further testimony, deliberation, voting or any action whatsoever on the application that is the subject of the complaint. The hearing on the subject application shall be continued to the next regularly scheduled hearing of the commission. The commission may continue to hear other matters on the agenda and all members may deliberate and vote on those matters.

The Chairman shall within twenty-four hours notify the Director of Development Services or the Planning and Zoning Administrator, who shall direct that a written transcript of the hearing be prepared. Only that portion of the hearing wherein the complaint was verbalized and any discussion was heard on the matter need be transcribed. The Director or the Planning and Zoning Administrator shall, after the transcript has been prepared, submit to the Board of County Commissioners a summary statement setting forth the nature of the potential conflict, the name of the commissioner against whom the complaint was made, the date of the hearing where the issue was raised, the date to which the hearing was continued, a copy of the completed complaint form, if any, along with a request that the Board direct an investigation to be completed prior to the next hearing. A copy of the transcript will be attached for review.

While a complaint is pending before the Board of County Commissioners, the commission shall not conduct any further proceedings on the subject application; and the named commissioner shall not discuss any matters pertaining to the subject application with any employee of the Development Services Department or with any other commission member until a final decision on the complaint has been rendered by the Board of County Commissioners.

#### **Investigation and Determination by the Board of County Commissioners**

When the Board of County Commissioners receives notification in any form set forth above, the Chairman shall immediately request that the Ada County Prosecuting Attorney conduct an investigation into the matter, analyze the facts and the law on conflicts, and provide to the Board an advice letter to include the attorney's conclusions.

Upon receiving said letter, the Board shall decide what, if any action to take and shall notify in writing the Chairman of the commission, the subject commissioner and the Director of Development Services of its decision. The Chairman of the Planning and Zoning Commission shall act according to the Board's decision.

If the decision of the Board is that a conflict exists, the subject Commissioner shall not participate in any further proceedings regarding the subject application, including conversations with county staff or other commission members regarding the subject application, deliberations or voting on the application. A Commissioner who has recused himself/herself from participating in the processing of an application shall not offer testimony on the application.

If upon advice of the Ada Prosecuting Attorney, the decision of the Board is that there is no conflict, the subject Commissioner may fully participate in all further proceedings regarding the subject application.

The Director or the Planning and Zoning Administrator shall without delay notify the complaining party of the Board's final decision. The Director shall maintain and keep all documents regarding all such complaints filed pursuant to this Resolution.

### **Forms and Publication**

The Director shall develop a complaint form to be used by staff or the public for matters pursuant to this Resolution, and said form shall be posted on County's main website and the website of Development Services; copies of said form shall be available in the offices of Development Services, the main office of the County Commissioners, and shall be made available at all Planning and Zoning Commission hearings.

This Resolution and any future amendments hereto shall be published on the County's main website and the website of Development Services.

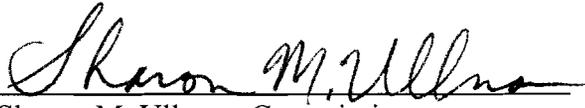
### **Offering Testimony**

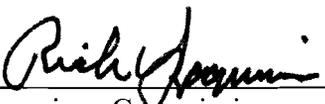
A commissioner who has recused himself/herself from participating in the processing of an application or has been found by the Board to have a conflict of interest shall not offer testimony on the application. The Chairman will disclose on the record that the commissioner is a member of the commission but has recused himself/herself and will not participate in any deliberations of the commission and will have no part in the final decision or recommendation to the Board of County Commissioners.

**APPROVED AND ADOPTED** this 9th day of December, 2009.

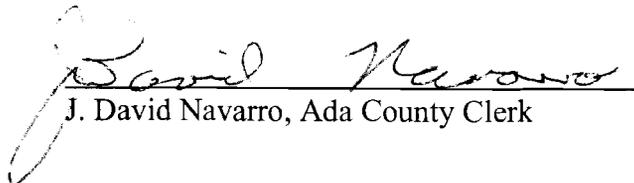
**Board of Ada County Commissioners**

By:   
Fred Tilman, Chairman

By:   
Sharon M. Ullman, Commissioner

By:   
Rick Yzaguirre, Commissioner

ATTEST:

  
J. David Navarro, Ada County Clerk