

**Subject:** RE: Continuation of May 5 Adoption Hearing #1 to May 26

Good afternoon, Judy. Thank you for your email.

C.R.S 30-28-106, which prescribes the procedural requirements for adoption of a master plan, does not require a specific number of public hearings, though it does say that prior to adopting a master plan, the planning commission “shall conduct public *hearings*... in order to encourage public participation in and awareness of the development of such plan and shall accept and consider oral and written public comments throughout the process of developing the plan” (emphasis added).

It is my legal opinion that the statutory requirements have been met by the numerous public engagement opportunities that have been offered, including 1) offering 2 separate hearing dates for the receipt of public testimony related to the master plan (even though in total they constitute a single hearing on a single agenda item), 2) holding focus groups and workshops throughout the plan development process, 3) holding advisory committee meetings that are open to the public, and 4) soliciting written comments from the public throughout the plan development process. I do not believe the fact that adoption of the master plan constitutes a single agenda item that has been continued from one hearing date to another violates the hearing and public input requirements of the statute.

I apologize for the misunderstanding, but there has never been any public discussion of or expectation set for allowing people to testify more than once on this item.

Lori Seago  
Sr. Asst. County Attorney  
(719) 520-7371

CONFIDENTIALITY NOTICE

*CONFIDENTIAL INFORMATION PROTECTED BY THE ATTORNEY-CLIENT AND/OR ATTORNEY WORK PRODUCT PRIVILEGES OR OTHER COMMUNICATION PROTECTED FROM PUBLIC DISCLOSURE BY COLORADO LAW. This electronic mail transmission and any attachments contain information belonging to the sender which may be confidential and legally privileged. This information is intended only for the use of the individual or entity to whom this electronic mail transmission was sent as indicated above. If you are not the intended recipient, any disclosure, copying, or distribution of, or action taken in reliance on, the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately inform me by “reply” email and delete the message. Thank you.*

**From:** Judy von Ahlefeldt <[blackforestnews@earthlink.net](mailto:blackforestnews@earthlink.net)>  
**Sent:** Thursday, May 6, 2021 1:54 PM  
**To:** Lori Seago <[LoriSeago@elpasoco.com](mailto:LoriSeago@elpasoco.com)>  
**Cc:** EXTERNAL Black Forest News <[EXTERNALBlackForestNews@elpasoco.com](mailto:EXTERNALBlackForestNews@elpasoco.com)>  
**Subject:** Continuation of May 5 Adoption Hearing #1 to May 26

**CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.**

---

Hi Lori,

Judy von Ahlefeldt here with a question.

At the very end of yesterday's Hearing #1, May 5, 2021 for Adoption of *Your El Paso* Master Plan, Mr. Brian Risley, Planning Commission Chair said the May 5 meeting would be continued on May 26, and the members of the public allowed to speak would not include any who had spoken on May 5.

The May 5 meeting was not ended because of being out of time, or because more people were wishing to speak on May 5. Item #9 (Under the heading of Rules and Participation Guide for the El Paso County Master Plan Hearings) in the official announcement for the May 5 and May 26 meetings says: ""9. The May 5th hearing is scheduled to conclude at 5:00 pm MDT. On the event that there are public comments that remain to be heard, those persons shall receive the first opportunity to participate in the May 26th hearing." Mr. Walter Lawson declined to speak on May 5 (he was on the list per PCD) but said he wished to speak May 26.)

The Published Agenda for May 26, 2021 sent on April 23, 2021 lists "Additional Public Testimony" (if necessary)" as the first Agenda item for May 26.

I was my understanding that the two separate meetings on two different days were required for Adoption of the Master Plan, and that the public would be afforded the opportunity to participate at each meeting. The information will NOT be the exactly the same at both, and Mr. Dossey, Mr. Gebhart and Mr. Houseal have all said that public comment would be taken through May 26... "Until the gavel falls" said one of them.

So I was surprised that the Chair chose to continue the May 5 meeting (not adjourn it well before 5 p.m.), and included the condition that none of the four speakers (three from the "Public" and one Agency liaison Member of MPAC) would not be afforded the opportunity for further comment. These were the only four participants on May 5.

It is not clear:

1. that there are restrictions on who can provide testimony, (or if there are restrictions then why are there restrictions)
2. or if this is testimony only applies to the same materials available on May 5 (i.e. continuing THAT hearing),
3. or if the additional testimony time is for any changes made to the draft "Your El Paso" from the end of the May 5 meeting until the May 26th draft (presumably made available to the Public on EDARP and the HLA site in time for consideration prior to May 26th).
4. Additionally - if further substantive (not corrective) changes are made during the "break" on May 26, it that is still in the purview of the Public Comment hearing provision.

I specifically asked Mr. Risley after the end of the May 5 meeting yesterday if he meant that none of the individuals who spoke at the May 5 hearing would be allowed time to testify again on May 26. His curt answer was "yes".

Please clarify what the "rules" are here.

I have looked at both the update of the 2019 Planning Commission Bylaws, as well as Robert's Rules, and the reasons for continuing a meeting rather than adjourning it and find the Chair' direction unusual.

Are these truly two separate hearings with the same rules, which allow the Public, on May 26, to comment AFTER the item is presented (with changes since May 5) and any additional changes as a result of Items 2 and 3 on the agenda, with hearing #1 being information on a Legislative Item and hearing #2 including an action on that Legislative Item?

I would like to testify at the May 26th hearing - that is why I am writing to you.

Thank you,

Judith von Ahlefeldt

Ecologist and Public Review speaker from

May 5, 2021 Hearing #1.