



## CHAPTER II PRELIMINARY DESIGN

### SECTION 2-03

### PUBLIC HEARINGS AND MEETINGS

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**2-03.1 PURPOSE.** Public involvement in the development of transportation projects is increasing. Individuals today expect and demand an active voice in the location and design of transportation improvements. The public frequently questions not only the design or physical features of a project, but also its basic premise or assumptions as identified by MoDOT.

It is important to remember that gaining public involvement through any means, including the formal public hearing, is not just a base to be touched or a box to be checked in the project-development process. Public involvement allows MoDOT to gather real, valid input on transportation needs and to work with customers to refine solutions that meet those needs.

This involvement is also important as we attempt to develop transportation projects within the context of the communities we serve. Early and continuous solicitation of public opinion will identify what customers expect from our improvements.

The project-development team should include not only engineers, technicians, environmental, cultural resource and right of way personnel but also public affairs professionals as well. With these combined resources, an effective public involvement plan can be developed for each project, maximizing our opportunity to arrive at an effective transportation solution.

The following requirements for public meetings and hearings should not be viewed as complete. These procedures outline the minimum requirements for public meetings, but more effort should be expended on most projects.

Particular care should be paid to contacting adjacent property owners, public officials, elected representatives, law enforcement, schools and emergency services with a regard to the proposed improvement. Innovative methods to involve minority and economically disadvantaged sectors of the community, as well as other unique groups (senior citizens, economic development interests, and historical and environmental groups) should be used.

Perhaps the people who show up at public information meetings are not a good representation of the general public, rather they are primarily those who fear they will be adversely impacted. The challenge exists, therefore, to find ways to reach the broadest spectrum of the community.

MoDOT efforts should exceed the minimum necessary to satisfy state and federal regulations. Our efforts must provide a truly inclusive atmosphere for public input into the development of selected alternatives and plans for transportation improvements.

Public hearings and public meetings are forums for receiving citizen comments. Both are used to comply with the commission's desire to furnish the public with general information and to allow the public to express their opinions relating to highway matters. Information related to the impacts of a proposed action can also be gathered. Location public hearings are required by the National Environmental Policy Act (NEPA) and FHWA regulation 23CFR771, while design public hearings are required by the Missouri Highway and Transportation Commission. Public hearings have a prescribed format, while public meetings are generally optional events and are tailored to meet department or community needs. Specific public meetings that may be necessary are prelocation study meetings. Agency scoping meetings, which are the only type of required meeting where the general public is not specifically invited, are normally required for projects with potential significant impacts on the environment as discussed in [Subsection 2-03.3](#).

Prelocation study meetings and public hearings must be advertised and structured to ensure opportunities for minority, low income and disadvantaged populations to participate. Additional effort may be required by the district to identify and contact these populations. These efforts, beyond advertisements in newspapers and media announcements, should be documented for inclusion in environmental documents and for department wide Title VI and environmental justice compliance. Minority and disadvantaged populations are those defined by Title VI and

Environmental Justice guidance. Low income populations are those defined by the census category. If there are questions concerning minority and disadvantaged population participation, contact the socioeconomic specialist in GHQ Design.

**2-03.2 PRELOCATION STUDY MEETINGS.** A prelocation study meeting is held for all projects with an EA or EIS environmental classification prior to the preparation of a location study/environmental report. For projects with an environmental classification of Categorical Exclusion (CE) or Open-ended Categorical Exclusion (CE2) that may have effects on the environment, or contemplate alternate locations around or through communities, a prelocation study meeting should also be held prior to the preparation of a conceptual study or CE2 documentation. The MoDOT project manager is responsible for scheduling and coordination of the prelocation study meeting in cooperation with GHQ Design, for all projects regardless of the fact that consultant staff may be used to perform the study. This does not mean that the MoDOT project manager can not assign duties for the meeting to the consultant staff if applicable. However, the MoDOT project manager is responsible for the content and quality of the meeting.

The purpose of a prelocation study meeting is to describe the general nature of the proposed project to the public and to obtain comments concerning the project's impact on local communities and the environment of the area. Primary information sought should concern community values, goals and objectives, and other areas of special interest of which the local citizens may be aware including history, archaeology, geology, biology, and public lands in the study area. The draft Purpose and Need document, as accepted by GHQ Design, should be available at the meeting. Comments and information received at the meeting will be used to refine or expand the draft Purpose and Need prior to its inclusion as a section of the Location Study Report.

At least two months prior to the prelocation study meeting date, two copies of a written request for environmental services should be sent to GHQ Design requesting preliminary scoping, screening and early constraint identification (including but not limited to wetlands, cultural resources, and public use areas). A form for this use (see [Figure 2-02.2](#)) can be found in the Environmental/Cultural Resources category of the Design forms on the computer system. GHQ Design, after receiving the request, will perform the necessary scoping, screening and constraint identification activities. The information that is gathered during screening should be given to the MoDOT project manager to be used in display preparation. Preliminary scoping may also consist of agency scoping meetings for complex projects or written correspondence for less complex projects as determined by GHQ Design and FHWA (see [Subsection 2-03.3](#)). This information, from the screening and constraint identification, is presented to the public at this meeting as it can limit potential alternatives, and is therefore made available at the prelocation study meeting. An exception, however, is that the location of archaeological sites should not be disclosed in an effort to prevent the vandalism and looting of these sites.

Displays available at the prelocation study meeting are general in nature showing the entire study area with no possible solutions presented. Typical displays include one display showing all environmental and cultural constraints identified as a result of the written request for environmental services, except for archaeological sites. Other displays might include information from the Purpose and Need on accidents, capacity and/or deficiencies of the existing facility. A display showing the general process for completion of a location study/environmental report with the prelocation study meeting stage highlighted is helpful to the public in understanding the magnitude of the process that MoDOT must complete. [Figure 2-03.6](#) is an example of what this might look like. For projects where relocation of a route might be an option, a blank display that the public can draw suggested alignments on is helpful. Preparation of all displays is the responsibility of the district and should be retained for possible use at future meetings.

Adequate and appropriate staff should be available to answer questions from the public at the meeting. District staff would normally include the District Engineer, project manager, public affairs specialist and the project designer. Other staff would be included as needed on a project by project basis. GHQ Design should be consulted as to the need for particular specialists from GHQ or other staff to be there. If consultant staff is involved in the preparation of the study, appropriate members of the consultant staff should attend the meeting in addition to district staff and GHQ staff. The MoDOT project manager is responsible for coordinating attendance of appropriate staff from the district, consultant and GHQ prior to holding the meeting.

Appropriate news releases are prepared and distributed for publication by the district in advance of the prelocation study meeting in order that the general public will have an opportunity to attend and to participate. A copy of the

news release is sent to the State Design Engineer and FHWA. In addition to the news releases, specific notification of the meeting is made to known interested property owners, community leaders, planning commission representatives, local representatives from state agencies such as the Missouri Department of Conservation and the Missouri Department of Natural Resources, and any other special interest groups. Federal resource agencies such as the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Park Service, the appropriate U.S. Army Corps of Engineers district office, and others are notified of the prelocation study meeting. The U.S. Coast Guard is notified if the proposed action involves a navigable waterway. Minority and ADA (Americans with Disabilities Act) groups are invited to this meeting, if such groups exist in the project area.

Following the prelocation study meeting, the district provides GHQ Design with a summary of the meeting along with any handouts that were used or written comments that were received. This summary includes a synopsis of public comments expressed at the meeting. If appropriate, the transmittal letter includes any recommended solutions or revisions that would address the concerns brought up at the meeting. Comments and recommendations from the meeting should be utilized by the district in refining the purpose and need for the project and in the development of the location study/environmental report. Additional scoping meetings with the public or other agencies may also be held at this stage of project development. Any meetings held by the district or GHQ Design are documented for use in the preparation of the location study/environmental report.

**2-03.3 AGENCY SCOPING MEETINGS.** Meetings with concerned governmental agencies are held on all projects with an environmental classification of EIS and for complex or lengthy EAs unless prior consent from FHWA is obtained to scope in another fashion. Agency scoping meetings are held prior to the preparation of the location study/environmental report, but following the preparation of the draft Purpose and Need document and the preliminary screening. Agency scoping meetings may be held prior to or following prelocation study meetings. Agency scoping meetings are generally held in Jefferson City as needed on specific projects or they may be incorporated into the Quarterly Agency Meetings held by GHQ Design at the discretion of the environmental process and policy assistant in GHQ Design and FHWA.

The purpose of these meetings is to describe the general nature of the proposed project and to obtain comments from the agencies concerning the project's impact on the environment. An Agency Scoping Meeting helps define the issues and alternatives that will be examined in detail in the EIS or EA while simultaneously devoting less attention and time to issues which cause no concern. This meeting is initiated by the MoDOT project manager through the environmental process and policy assistant in GHQ Design, and generally will be held in Jefferson City in coordination with FHWA. The MoDOT project manager is responsible for the arrangements for the meeting. This includes the coordination of attendance by appropriate staff (district, GHQ, consultant, etc.) and coordination of topics and displays to be presented at the meeting. This does not mean that the MoDOT project manager can not assign duties for the meeting to the consultant staff if applicable. However, the MoDOT project manager is responsible for the content and the quality of the meeting.

Prior to the agency scoping meeting, the district should send out invitations with the meeting time and location to all appropriate agencies. The district should supply GHQ Design and FHWA with copies of the draft Purpose and Need document along with any other pertinent information on the proposed project that was mailed with the invitation. A map showing the study area is also necessary.

At the agency scoping meeting, displays should be available which cover the study area and show all known constraints, both environmental and engineering, except for archaeological sites. These can be the same displays used at the prelocation study meeting. The MoDOT project manager should be prepared to facilitate the meeting and should briefly present the project Purpose and Need. Other topics presented and discussed should be unique to the specific project. It may be appropriate to have a general overview of known environmental and cultural constraints and it may be necessary to have a specific specialist in attendance with a presentation on one constraint. The MoDOT project manager should coordinate the agenda ahead of time with the environmental process and policy assistant from GHQ Design to ensure a productive and informative meeting occurs in the time allotted. Coordination between the MoDOT project manager, district staff, the consultant staff if applicable, and GHQ must occur prior to the meeting. All four parties may have a role in the meeting.

The environmental process and policy assistant in GHQ Design should coordinate quarterly meetings with all governmental agencies. The purpose of these meetings is to share information on upcoming EA and EIS projects

and to discuss the status of ongoing projects with the various agencies that are involved. Part of the agenda may be set aside for any agency scoping meetings that are needed. Agency issues beyond specific project issues should also be discussed.

District staff should be notified in advance of the quarterly meetings as to the date and the agenda for the meeting. District participation in the meetings should be coordinated with the MoDOT project managers involved for any specific projects on the agenda, but not necessarily with policy or procedure topics. Minutes of all quarterly meetings should be mailed to the District Engineers.

**2-03.4 LOCATION PUBLIC HEARINGS.** A location public hearing is necessary to fulfill the requirements of NEPA for all projects with an environmental classification of EA or EIS. Projects which have an environmental classification of CE may require a location public hearing if conditions are similar to those described for design public hearings. It may be acceptable to hold a combined location and design public hearing for CE projects. It should be noted that CE2 projects will be reclassified by FHWA as either EA or CE; this reclassification should occur before the time of any expected location public hearing. If a CE2 is reclassified as an EA, a location public hearing will be required after the draft EA is approved by FHWA. If a CE2 becomes a CE, a location public hearing may be required.

After the draft environmental documentation is approved by FHWA, GHQ Design will notify the district that a location public hearing may be held. While tentative arrangements may be made for the location public hearing prior to the document being signed, it is not advisable to firm up the arrangements or advertise for the hearing until AFTER the signature is received. In the case of an EIS project, once the draft EIS is signed a notice of availability (NOA) must be published prior to advertising for the location public hearing. This is done by the EPA once they receive the approved draft EIS in Washington D.C. For a project with an environmental classification of CE, a location public hearing may be held after the conceptual plan is approved.

A location public hearing is held to provide effective participation by interested persons in discussing specific location features, including the social, economic, environmental, and other effects of all the reasonable project alternatives. These hearings afford the department an opportunity to receive information from local sources which will be of value in choosing a preferred location. The hearings are not intended to determine location by a majority vote of those persons present.

**2-03.4 (1) COORDINATION WITH OTHER AGENCIES.** Coordination with other agencies and groups is an integral part of the environmental process. Pertinent information obtained from prelocation meetings, agency scoping meetings or other coordination is made available to the public as a part of the location public hearing. To accomplish this, each district is to maintain a list upon which any federal agency, local public official, or public advisory group may enroll to receive notice of projects in any area specified by the agency. Refer to [Figure 2-03.1](#) for the basic list of agencies. The district is responsible for completing the list with regional, county, city, and other local agencies or public officials. Any governmental agency, person, or group of persons must be placed on the list upon request. The agency, person, or group must provide us with its area of interest when such area is not readily apparent.

These interested agencies are to be advised by the district of the date of the hearing at the time the notice for the location public hearing is published. The letter further advises the agency that their written views, if any, will be available for public viewing at the location public hearing if submitted to the department not later than three calendar days prior to the date of the public hearing and that written views will be made a part of the transcript if received within ten working days after the date of the location public hearing.

**2-03.4 (2) SECTION 4(f) AND SECTION 6(f) LANDS.** On projects that may involve Section 4(f) and Section 6(f) lands the district notifies the proper agency(s) inviting them not only to be represented at the location public hearing but also to participate in the hearing discussion period. The notification is issued at the same time as the request for newspaper publication of the notice of public hearing. A copy of the notification is sent to GHQ Design. The project's impacts on historic properties must be identified or discussed at public hearings. Documentation of public input or knowledge regarding these impacts is required.

**2-03.4 (3) RAILROADS.** The district advises all railroads by sending a notice to the railroads' chief engineers when the

improvement is within an urban area or affects railroad yards or industrial properties belonging to the railroad. Preliminary layouts through yards or industrial areas should be discussed with the railroads to ensure their current plans are not in conflict with our layouts. This should be done in coordination with the Multimodal Operations Office.

**2-03.5 DESIGN PUBLIC HEARINGS.** A design public hearing, or opportunity afforded for such hearing, is required for all projects regardless of environmental classification which are on new location, require substantial amounts of new right of way, substantially change the layout or functions of connecting roadways or of the facility being improved, have a substantial adverse impact on abutting property, or otherwise have a substantial social, economic, environmental or other effect, or for which FHWA determines that a public hearing is in the public interest. Substantial amounts of right of way and substantial adverse impact on abutting property as used here is defined as follows: total additional right of way and permanent easements greater than 20 acres [8 ha] in rural areas or 200,000 ft<sup>2</sup> [18,500 m<sup>2</sup>] in urban areas, or acquisitions of right of way or permanent easements from five or more properties. All projects that involve Section 4(f) or Section 6(f) lands should be examined to determine if a design public hearing is advisable. A design public hearing is held for any job requiring a road closure for all or a portion of the construction period. The criteria established in this section should be considered a minimum level for which a public hearing is required. Authority to conduct the design public hearing is given with the District Engineer's approval of the preliminary plans.

A hearing should still be considered, even if not "required", if the impact on the traveling public, adjoining property owners and businesses in the area is considered to be significant. Generally 3R and 4R projects do not require hearings. However, a hearing may be desirable to advise local officials, adjacent property owners and other users of the details of the project. A hearing is an opportunity to gain comment from the public concerning the improvement and it allows the department an opportunity to outline a proposed solution to an identified transportation need. The desirability, methods of advertising and format for these meetings are left to the discretion of the District Engineer. A summary of the meeting is submitted to the State Design Engineer.

At design public hearings, the preliminary plans and other exhibits derived from the location study are displayed. Pertinent information about the location alternatives studied and reasons for selecting the proposed location are discussed. Details of the effect of the proposed design on individual properties are discussed. Information about design alternatives studied is made available.

**2-03.6 ADDITIONAL HEARINGS OR MEETINGS.** Additional hearings or meetings or opportunities for such hearings or meetings may be scheduled when there has been a substantial change in the proposal, substantial unanticipated development in the area affected by the proposal, an unusually long lapse of time (more than 3 years) between the last location public hearing and location approval or design public hearing and design approval, and/or identification of significant social, economic, or environmental effects not previously considered at earlier hearings.

**2-03.7 ADVERTISEMENT FOR PUBLIC HEARINGS.** Notices concerning public hearings are to be published as a legal notice in a newspaper having general circulation in the vicinity of the proposed project. Additional paid advertisements are encouraged to ensure maximum public input. Letters to individual property owners, business owners, service providers (sheriff, police, fire, schools, Post Office, emergency, etc) and other interest groups should also be provided (see [Figures 203.7](#) and [2-03.8](#)). Extra efforts may be necessary to ensure that minority and disadvantaged populations are aware of the process. Examples of these efforts include house to house contact, bulletins at kiosks, community minority liaison contacts, and notices in newspaper and media outlets, which cater to minority and disadvantaged populations. These efforts should be documented for inclusion in environmental documents and department wide Title VI and environmental justice compliance. The notice of public hearing specifies the date, time, and place of the hearing and contains a description of the project. If the open-house format is to be utilized, this procedure is explained in the notice. The notice of public hearing specifies that maps, drawings, appropriate environmental documents, other pertinent information developed by the department, and written views received as a result of the coordination with other agencies or groups, will be available for public inspection. The notice also specifies that this information is available in the appropriate district office and at some other convenient location such as a court house, city hall or library for public inspection and/or copying. [Figures 2-03.3](#) and [2-03.4](#) are examples of proper format for the advertising notice. The notice of public hearing is to be published a minimum of 21 calendar days prior to the date of the hearing. A copy of the notice is to be sent to the State Design Engineer and to FHWA at the same time that it is published. The district furnishes FHWA and GHQ

Design proof of publication for location public hearings.

In addition to publishing a notice of public hearing, the district submits news releases to the newspaper and electronic media at about the same time as the official notice is to be published and again approximately 5 to 12 calendar days prior to the date of the hearing. The news releases generally contain the same information included in the official notice. If the district feels that other methods of advertising a public hearing would help increase public attendance, these options should be explored along with the legal notice and news releases. Options may include direct patron mailings, flyers in public areas, signs erected in the project area, or other methods.

The views of interested agencies are to be solicited in writing at the time the notice of location public hearing is published if the agencies were not involved earlier in the process.

A mailing list is maintained by the districts so that interested agencies, local officials, groups, or individuals may receive by mail a notice of the public hearing.

**2-03.8 ADVERTISEMENT FOR OPPORTUNITY FOR PUBLIC HEARINGS.** If, in the judgment of the District Engineer, ample evidence of the desire for a public hearing is not apparent, the district may advertise the opportunity for a public hearing. Letters to individual property owners, business owners, service providers (sheriff, police, fire, schools, Post Office, emergency, etc) and other interest groups should also be provided (see [Figures 2-03.7](#) and [2-03.8](#)). In addition to or instead of the information required for the notices and news releases described above, the notice of opportunity for a public hearing includes instructions as to how to request a public hearing. All requests must be in writing and should be acknowledged in writing by the District Engineer.

This notice is published as either a paid advertising notice or a legal notice and submitted as a news release. This notice advises the public of a deadline for the request for a public hearing. This deadline for submission of a request is set 21 calendar days after the publication of the notice.

If a request is received, the district may contact the individual to discuss their concerns with the project. The person making the request is allowed 14 calendar days to withdraw their request in writing. If a request is made and not withdrawn a public hearing is held.

If no requests are received by the district, the district documents the opportunity for public hearing notice and certifies that no requests were received. This documentation and certification is forwarded to GHQ Design for both location public hearings and design public hearings. This information will be used to obtain commission approval for the location or the design of the improvement.

**2-03.9 PROCEDURES FOR CONDUCTING PUBLIC HEARINGS.** Public hearings are to be held at a place and time generally convenient for persons affected by the proposed undertaking. When selecting the time and location of the meeting, special consideration should be given to making the setting comfortable for all, including minority and disadvantaged populations. The hearing is conducted by the district with possible assistance from staff of GHQ. The hearing location selected should provide adequate accessibility for physically disabled citizens. Accessibility should also be adequate for minority and low income populations. Special attention should be paid to access from public transportation, the ability to walk to the meeting, and obstacles such as railroad tracks, crossing busy highways, etc. There are two alternate procedures which may be used to conduct public hearings: the traditional formal speaker-audience format, or the open-house format. The selection of format is at the discretion of the District Engineer and should be based on an analysis of the conditions involved. This analysis of the conditions involved should include consideration of minority and low income populations. The recommended open house format tends to be comfortable for a wider variety of people. Where there are language barriers, efforts should be made to ensure all voices are heard and presentations can be understood by all.

**2-03.9 (1) FORMAL PUBLIC HEARINGS.** Formal public hearings consist of an opening statement, a period for statements and questions from the public, and a closing statement. Following is a list of actions and statements that should take place at all formal public hearings:

- The public hearing is to be conducted in a business-like manner, and answers to questions are to be as complete and unbiased as possible.

- A complete record is made, including names and addresses, for all those in attendance and those speaking.
- The opening statement includes an explanation of the purpose and need for the project. Information such as accident data, structural deficiencies, capacity problems, and public requests may be cited as justification for the project. Pertinent information about the location alternatives studied as well as major details of the proposed design are discussed. This information should describe the project's consistency with the goals and objectives of the area.
- The following statement is to be made at all hearings: "This project is being processed in accordance with federal rules and regulations. Plans will be subject to review by FHWA. If federal funds are used in right of way acquisition and/or construction, the percentage of federal funds used will be in accordance with current regulations".
- The tentative schedule of right of way acquisition and construction is mentioned. It is limited to a statement that as soon as design approval is received, the department will proceed with design and right of way acquisition and construction will take place when funds are available. A statement is included to the effect that the improvement under consideration is on the State Transportation Improvement Program (STIP).
- At any hearing on a project which will require additional right of way to accommodate the proposed facility, the following is included as a part of the opening statement: "Each person in attendance has been provided with or has available to them a brochure entitled "Pathways for Progress". This brochure explains the various steps in acquisition of property required for a highway project. You will be contacted by a representative of the department at the beginning of the acquisition process and all features in this brochure will be discussed in detail with each property owner". In order that the public will be adequately informed regarding relocation assistance procedures, the following is included as a part of the opening statement, where applicable: "In addition to the brochure, a pamphlet entitled "Relocation Assistance and Payment Program" has been provided or is available. This pamphlet describes assistance and benefits available to those that will be displaced by this project. This program will also be discussed individually with those being displaced as part of the acquisition process". In addition to this statement, it is necessary to discuss the number of individuals, families, businesses, etc. that may be relocated by the project under consideration and if studies indicate adequate replacement housing is available. If sufficient comparable replacement housing is not available, we must indicate that we are committed to provide last resort housing. It is also necessary to state that no one will be displaced from their residence unless an appropriate replacement dwelling is available or provided.

**2-03.9 (1) (a) FORMAL LOCATION PUBLIC HEARINGS.** For formal location public hearings, the following additional actions and statements should take place:

- The public is advised that the public hearing is being recorded and that the transcript will be studied and submitted to the Chief Engineer of the Missouri Department of Transportation and to the Missouri Highway and Transportation Commission. The following statement is made: "We encourage everyone to ask questions and make their comments known. All comments received will be evaluated by the department staff and the commission in determining the final location of the project. Many factors are considered and any one of the alternate locations may be selected and approved for further plan development. The Commission will approve the selected alternative once FHWA has approved the conclusion of the NEPA process."
- All substantive written views received prior to the location public hearing must be made available to the public as part of the hearing either by display at the hearing, or by reading into the transcript. These letters may be included as part of the environmental document and displayed in that manner.
- Provision is made for acceptance of written statements and other exhibits in place of or in addition to oral statements at the time of the location public hearing. A statement is made that any additional pertinent information received within ten working days after the hearing will be made a part of the transcript and substantive comments will be addressed in any final environmental documentation.
- The opening statement also includes a brief explanation of the content and availability of the environmental impact statement (EIS) or environmental assessment (EA). For projects with an environmental classification of CE, a statement is made that the proposed improvement is expected to have no significant impact on the environment and hence is categorically excluded from the need to prepare an EIS. For EA and EIS projects, at least two copies of the approved draft environmental document must be available for public review at the hearing. However, to avoid vandalism and

looting, the location of archaeological sites should not be disclosed to the public.

- Any significant encroachment on flood plains or wetland areas is discussed.
- The following statement is to be made at all location public hearings: "Any time after the location public hearing and before design approval, information pertaining to the proposed location and design, including the transcript, will be available upon request at the district office for public inspection and copying."
- Pertinent information about all of the location alternatives studied is discussed and shown on exhibits. All alternatives carried forward in the draft environmental document as reasonable are to be given equal consideration at the hearing in terms of exhibit presentation and design detail. All alternates considered but dropped from further consideration should have pertinent information regarding this decision available for discussion at the hearing. A color sketch is provided as a handout. See [Figure 2-03.2](#). The approved draft environmental document is also made available. It is advisable to not indicate a preferred alternate for this hearing unless one stands out.

**2-03.9 (1) (b) FORMAL DESIGN PUBLIC HEARINGS.** For formal design public hearings, the following additional actions and statements should take place:

- The public is advised that the public hearing is being recorded and that the transcript will be studied and submitted to the Chief Engineer of the Missouri Department of Transportation and to the Missouri Highway and Transportation Commission. The following statement is made: "We encourage everyone to ask questions and make their comments known. All comments received will be evaluated by the department staff and the commission in determining the final design of the project. The Commission will approve the design based on comments received at this hearing and the district may then proceed with right of way and construction plans."
- All substantive written views received prior to the design public hearing must be made available to the public as part of the hearing either by display at the hearing, or by reading into the transcript.
- Provision is made for acceptance of written statements and other exhibits in place of or in addition to oral statements at the time of the location public hearing. A statement is made that any additional pertinent information received within ten working days after the hearing will be made a part of the transcript, and substantive comments will be addressed prior to Commission approval of the design.
- The following statement is to be made at all design public hearings: "Any time after the design public hearing and before start of construction, information pertaining to the location and proposed design, including the hearing transcript, will be available upon request at the district office for public inspection and copying."
- A color sketch is provided as a handout. See [Figure 2-03.2](#). Preliminary plans and other exhibits derived from the location study are displayed. It is also recommended that the approved final environmental document is made available for public review at the design hearing.

**2-03.9 (2) OPEN-HOUSE PUBLIC HEARINGS.** An open-house public hearing has the same requirements as formal public hearings except that some items are included on an informational handout, since verbal opening and closing statements by department staff are not made at open-house location public hearings. The advertising is the same, except all notices and letters describe the format being used with emphasis on the optional hours during which interested persons may attend. Alternate methods of submitting comments also are included in the notice. The normal time for an open-house public hearing is a weeknight other than a holiday, Monday through Thursday, from 4:00 p.m. until 7:00 p.m. These hours should accommodate persons wishing to attend during normal working hours and those wishing to attend after normal working hours. The duration of the hearing may be increased as needed if a large turnout is expected.

The site for open-house public hearings is separated into areas for greeting, display, and recording comments. This may be done with a large, single room or a group of smaller rooms. One or more greeters stationed at the entrance to the hearing room or rooms ask people upon arrival to fill out an attendance card and direct them to exhibit and comment areas. Each person is given a comment sheet and an informational handout. The handout has all information normally included in the opening statement at a formal hearing. In addition, it may include a location sketch, summary of environmental documents or other detail. Return postage may be included on comment sheets for the benefit of persons desiring to submit written comments by mail. The District Engineer should be present along with appropriate district and GHQ project personnel. It is recommended that GHQ staff

be notified of any particular issues which may call for their attendance at the hearing. Several sets of exhibits should be available in order to provide visitors ample opportunity to see the information. The exhibits of the project should be of sufficient quality and scale such that property owners can clearly identify their property. It is recommended that a wide corridor is shown at the location public hearing instead of showing specific lines and design features as these are subject to change. Additional exhibits showing traffic, accident, environmental, economic, or other data may also be displayed. To avoid the potential for vandalism or looting, the location of archaeological sites should not be disclosed. Exhibits of the NEPA process and project schedule may be shown in a simple format. [Figure 2-03.6](#) is an example of the NEPA process and project schedule. It may also be advisable to invite other agencies, cities, or counties, to be present or set up displays if they have projects going on in the area for which public questions are anticipated. Right of way personnel are stationed in a separate, clearly labeled area to discuss right of way matters. Another area is provided for submitting written comments. A separate, semi-private area is provided for the electronic recording of verbal comments with assistance from district personnel. Visitors should be reminded that written comments may be submitted up to 10 working days after the hearing.

**2-03.10 TRANSCRIPTS.** The district is responsible for the preparation of an accurate written transcript of the oral proceedings of each public hearing. The oral proceedings may be recorded by a tape recorder, a court recorder, or any reliable method that will assure a verbatim transcript. Shorthand notes are not considered adequate. Tapes are retained until the commission has approved the location or the design covered at the hearing(s). Public comments which are expressed at the hearing but are not recorded should also be noted. One copy of the transcript is prepared in the district office for submission to GHQ Design, for each of the following types of public hearings:

- Location
- Location and Design
- Design

The transcript is bound in a folder having contents in the following order:

- Executive Summary which describes and discusses issues raised at the hearing or during the open comment period. No recommendations are included in this summary.
- Project information handout
- Double-spaced transcript of any oral hearing proceedings
- Color location map(s) showing the alternate locations presented (location public hearing only) or the location of the recommended design (design public hearing only)
- Data pertinent to statements or exhibits used or filed in connection with the public hearing
- Data pertinent to information made available to the public prior to the public hearing
- Pertinent correspondence
- Copy of all written comments received

The following material should not be included in the hearing transcript:

- Data pertaining to newspaper advertising. This covers the descriptive notice as well as letters to newspapers requesting publication of a public hearing notice.
- Informative letters to FHWA.
- Letters to agencies concerning notification of a public hearing and listing of agencies so notified except where Section 4(f) and Section 6(f) lands are affected.
- List of names of people attending the public hearing.
- Plan sheet prints or similar large material bulky in nature unless they can be conveniently included.
- Other data such as copies of letters from GHQ, listing of information made available to the public prior to the public hearing, etc.
- Preliminary plans used as exhibits at the public hearing.
- Right of way or relocation brochures.

Additionally a Request for Approval of Location and/or Design of Highways, as shown in [Figure 2-03.5](#) and available as a design form with instructions, is submitted with a letter of transmittal from the District Engineer to

GHQ Design. The transmittal letter and Request for Approval of Location and/or Design of Highways are not made a part of the transcript. The transmittal letter addresses any substantive comments from the public hearing including the number of people who attended, recommendations, and general project information. The letter of transmittal from the District Engineer should also certify that the public hearing was held in accordance with all applicable rules and regulations, and that the department has considered possible social, economic, and environmental effects of the proposed improvement together with its consistency with local planning goals and objectives.

Location public hearing and Design public hearing transcripts are submitted to the GHQ Design. In the event that the district holds a combined location and design public hearing, the transcript should also be submitted to GHQ Design. The district must receive commission approval at this stage before further development of the plans can be accomplished. For EA and EIS projects, FHWA receives a copy of the location public hearing transcript from GHQ Design so that substantive issues to be addressed in the final environmental document can be considered prior to their approval of that document. FHWA approval of the final environmental document must occur prior to Commission approval of the location. GHQ will provide a copy of the design or the location and design hearing transcript, with executive summary, to FHWA for their review and comment. No department recommendation will be provided to FHWA at this time. They will provide a written comment to the department concerning the issues identified as a result of the public hearing. Their comments will be considered in the development of the department's recommendations to the commission. It is desirable that the submission of the transcript and executive summary to GHQ Design be made within a reasonable period (usually less than two months) after the public hearing.

Prior to submitting the transcript to GHQ Design, the district should make copies of the transcript and related material available for public inspection and copying at the district office.

In the event a scheduled public hearing is not held due to lack of attendance, a letter conveying information pertaining to the scheduled hearing will suffice in lieu of a transcript.

**2-03.11 PRESENTATION FOR LOCATION OR DESIGN APPROVAL TO THE COMMISSION.** Commission approval of the location or design of an improvement is required for the following:

- The location of all projects classified as an EA or an EIS.
- The design of all projects which require right of way or permanent easements, which exceed the limits defined in [Subsection 2-03.5](#).
- The design of all projects which close the existing roadway to traffic during construction.

A procedure governing the presentation of information to the Commission for location or design approval following a public hearing is stated below. This procedure should also be followed in the case of a public hearing which is not held due to no request being received for a hearing.

- The district should submit a letter to the appropriate project development liaison Engineer in GHQ with recommendations concerning the issues identified as a result of the public hearing. One copy of the hearing transcript, together with the executive summary, is provided as outlined in [Subsection 2-03.10](#).
- The necessary location sketch for the Commission exhibit should be prepared in accordance with [Figure 2-03.2](#). The location sketch should be sent to GHQ Design attached to an e-mail addressed to [commissionexhibit@mail.modot.state.mo.us](mailto:commissionexhibit@mail.modot.state.mo.us).
- For each item placed on the monthly Commission agenda, the e-mail to [commissionexhibit@mail.modot.state.mo.us](mailto:commissionexhibit@mail.modot.state.mo.us) must indicate whether there is a potential conflict of interest (i.e., a commissioner owns property within one-mile [1.6 km] of the project). District Right of Way and Chief Counsel's Office can provide information on potential conflict of interest areas for projects within the district. In the event a possible conflict does exist, the name of the commissioner and the location of the property will be required. Once this information has been provided to GHQ Design (at the time the item is sent to GHQ Design for inclusion on the Commission's agenda), GHQ Design will fill out the necessary form for the Commission Secretary and Chief Counsel's Office use. If no conflict of interest exists, the e-mail should state so accordingly.
- In order to properly schedule hearing information for presentation to the Commission for design approval, the district should provide the information to GHQ a minimum of three and one-half (3½) weeks prior to the

Commission meeting. This will allow for a two (2) working day review and ensure the item has been thoroughly discussed before it is placed on the Commission agenda.

- For an EA or an EIS project, the final location public hearing transcript must be received by GHQ Design 30-45 days prior to the final EA or EIS document submittal to FHWA. This will be three to six or more months prior to the project being placed on a Commission agenda for location approval.
- Should a difference of opinion develop between GHQ and the district concerning recommendations to the Commission, the Director, the Chief Engineer, or Director of Project Development should be consulted to reach consensus. The recommendation provided to the Commission indicates the "DEPARTMENT'S" position and not those singularly identified as the position of the district or GHQ.
- With the information received from the district, GHQ will ensure the item is placed on the Commission agenda and necessary backup is provided to the Commission. Based upon this information, GHQ will place the item on the regular or consent portion of the meeting agenda. In doing so, a consistent format will be maintained for the Commission's benefit.
- Should the item be on the Commission's regular agenda (due to controversy or public interest), the District Engineer will attend the Commission meeting and present the item for approval. If the item is placed on the Commission's consent agenda, the District Engineer should be in attendance at the meeting to answer questions from the Commission should it be transferred to the regular agenda.
- Following Commission action, GHQ will prepare the necessary Commission minutes.