

REPORT



FROM CITY ATTORNEY

July 20, 2005

THE HONORABLE PLANNING AND TRANSPORTATION COMMISSION
Palo Alto, California

RE: Proposed Amendments to Commission Bylaws and
Procedural Rules

Dear Members of the Commission:

Background. On April 13, 2005, the Commission directed this office to prepare revisions to the Commission's Bylaws and Procedural Rules for your consideration. The current Bylaws and Procedural Rules were last amended more than nine years ago. At its June 22, 2005 regular meeting, the Commission approved the first reading of the proposed new Bylaws and reviewed proposed new Procedural Rules.

Proposed Bylaws and Rules. Attached for the Commission's review are the proposed Bylaws, approved for adoption at the last regular meeting, as well as revised new Procedural Rules to replace the current Procedural Rules adopted in 1996.

As requested by the Commission, the revised Procedural Rules are modeled after the City Council Procedural Rules. Modifications suggested by the Commission at its April 13, 2005 study session and June 22, 2005 regular meeting have been made. A redline of the revised Procedural Rules has been provided indicating changes suggested by the Commission at its June 22 meeting.

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RE: Proposed Amendments to Commission Bylaws and
Procedural Rules

Recommendations. It is recommended that the Commission adopt the Bylaws as approved at the June 22, 2005 meeting.

It is further recommended that the Commission review the proposed new Procedural Rules, advise of any questions, concerns or suggested changes, then adopt the Rules to be effective at the next regular or special meeting of the Commission.

Respectfully submitted,



DONALD A. LARKIN
Sr. Deputy City Attorney

DAL:syn
Attachments

cc: Gary M. Baum, City Attorney
Emily Harrison, Assistant City Manager
Steve Emslie, Director of Planning and
Community Environment

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**BYLAWS OF THE
PLANNING AND TRANSPORTATION COMMISSION OF THE CITY OF PALO ALTO**

Adoption and Purpose. The Planning and Transportation Commission of the City of Palo Alto (“Commission”) desires to update its existing Rules and Regulations and Bylaws in order to facilitate public participation in Commission proceedings, assure procedural fairness during meetings and hearings, and satisfy the requirements of Government Code Section 65804, which requires that the Commission develop and publish procedural rules for the conduct of its hearings. Accordingly, the Commission hereby adopts these Bylaws, which shall govern the conduct of Commission proceedings on and after August 1, 2005. These Bylaws supersede and replace the document entitled Bylaws of the Palo Alto Planning Commission adopted on April 24, 1996.

Section 1. Creation; Duties of Commission.

The Commission is created pursuant to Chapter 2.20 of the Palo Alto Municipal Code, and shall perform any duties imposed upon it by ordinances of the City of Palo Alto, applicable state or federal law, including preparation of the long-long range general comprehensive plan; recommendation of all additions or changes to the City’s zoning regulations; review and recommendation regarding all tentative subdivision maps; site and design review in designated zones and corridors; and certain appeals from a decision of the Director of Planning and Community Environment. In addition, the Commission shall, as requested by the City Council, the City Manager, or the Director of Planning and Community Environment, provide advice on any matter pertaining to land use planning and transportation systems affecting the City.

Section 2. Officers.

2.0 The officers of the Commission shall consist of a Chairperson, Vice Chairperson, and a Secretary.

2.1 The offices of Chairperson and Vice Chairperson shall be filled by election of members of the Commission from among their members, and persons so elected shall serve for a term of one year or until their successors are elected. The election shall be held at the first regular Commission meeting conducted on or after August 1 of each calendar year. In the event that either office becomes vacant during the regular term, the Commission shall elect a member to serve the remainder of the term.

2.2 The Director of Planning and Community Environment, or the Director’s designee, shall serve as Secretary of the Commission.

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2.3 The duties of the officers of the Commission shall be as follows:

2.3.1 It shall be the duty of the Chairperson to preside over all meetings of the Commission, to appoint committees and to serve as an ex-officio member of all committees so appointed, to call special meetings of the Commission as provided by law and to designate the time and place of such meetings, to sign documents and correspondence in the name of the Commission, and to represent the Commission before the City Council, its committees, and such other groups and organizations as may be appropriate. The Chairperson may designate another member to act in his or her stead. The Chairperson shall have the same voting rights as other members of the Commission.

2.3.2 It shall be the duty of the Vice Chairperson to assist the Chairperson and to preside over meetings of the Commission during the Chairperson's absence.

2.3.3 It shall be the duty of the Secretary to keep a record of all the meetings of the Commission, to accept and file in the name of the Commission documents and correspondence addressed to it and to present all such correspondence to the Commission.

Section 3. Committees.

The Chairperson may appoint special committees as required or desired.

Section 4. Quorum.

Four members of the Commission shall constitute a quorum for doing business. When there is no quorum at the commencement of or at any time during a meeting of the Commission, the Chairperson or Vice Chairperson, or in such officers' absence any Commission member, shall adjourn the meeting, or if no Commission member is present, the Secretary shall adjourn the meeting.

Section 5. Regular and Special Meetings.

5.0 Regular meetings of the Commission shall be held twice a month, on the second and last Wednesdays of each and every month. Regular meetings shall be held at 7:00 p.m. in the Council Chambers of the City Hall, 250 Hamilton Avenue.

5.1 Special meetings may be called at any time by a majority of the Commission members present and voting at a regular meeting. In addition, a special meeting may be called by the Chairperson or by a majority of the members of the Commission, in accordance with the procedures for calling special meetings set forth in the California Government Code, § 54959, et seq. (Ralph M. Brown Act, hereinafter referred to as the "Brown Act"). Notice of any special meeting shall be provided in the manner required under the Brown Act, and no business other than that set forth in the

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notice shall be considered by the Commission at the special meeting. Special meetings, including but not limited to field trips, may be held at locations other than City Hall as specified in the meeting notice; however, no such meeting shall be held outside the City limits of the City of Palo Alto unless allowed by the Brown Act.

5.2 Any regular or special meeting of the Commission may be adjourned to a subsequent date for continuation or completion of the business on the Commission's agenda at the meeting. Notice of such adjournment shall be provided in the manner required under the Brown Act.

5.3 All regular and special meetings of the Commission shall be open to the public; provided, however, that closed sessions may be held from which the public may be excluded for any purpose lawful under state law.

5.4 Any regular or special meeting of the Commission may include or be held as a Study Session. Notice of the Study Session and the opportunity for public participation shall be provided in the same manner as may be required by law for action on the item(s) set for discussion. Study sessions shall not be for the purpose of taking evidence with respect to a project. Neither the Commission or staff may rely upon information obtained or comments made during a Study Session, unless such information or comments are reintroduced during a subsequent noticed public hearing on the merits of the item(s) discussed at the Study Session.

Section 6. Agendas.

The agenda for all regular and special meetings of the Commission shall be prepared in writing by the staff of the Department of Planning and Community Environment shall be posted within the time and in the manner required by the Brown Act. The agenda for regular meetings will generally be closed and no additional items accepted after 5:00 PM of the Thursday preceding the regular meeting. Additional items may be added thereafter only in conformance with the requirements of the Brown Act. Whenever feasible, a complete copy of each regular meeting agenda and all supporting materials will be delivered or mailed to each Commission member so as to reach the recipient not later than 7:00 PM on the Friday preceding the meeting.

Section 7. Conduct of Meetings.

7.0 The Chairperson, the Vice Chairperson, the temporary presiding officer appointed by the Chairperson, or, if necessary, whichever member of the Commission in attendance with the longest tenure on the Commission, shall take the chair at the time designated for the start of the meeting, and shall call the Commission to order.

7.1 The presiding officer shall preserve order and decorum at all meetings of the Commission, announce the Commission's decision on all subjects, and decide all questions of order subject to any appeal procedure set forth in the Commission's Procedural Rules.

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7.2 The Secretary shall call the roll of the Commission members and shall record the names of those present and those absent.

7.3 The Commission may, by a majority vote of its members, adopt or amend Procedural Rules to be followed at regular or special meetings of the Commission to the extent such procedures are not in conflict with these Bylaws, or any applicable local, state or federal law. The Procedural Rules shall be deemed guidelines and failure to comply with any procedural rule shall not be the basis for challenge to or invalidation of any action of the Commission, nor shall they be construed to create an independent remedy or right of action of any kind.

Section 8. Record of Hearing.

When a matter is contested and a written request is made prior to the date of the Commission's hearing on the matter, the Secretary shall ensure that a record of the hearing is made and duly preserved, a copy of which shall be made available at cost. The Secretary may require a deposit from the person making the request.

Section 9. Amendment.

These Bylaws may be amended, revised, or repealed by the affirmative vote of four members of the Commission. Proposed amendment, revisions, or repeal must be submitted at a regular meeting of the Commission and may not then be voted upon until the next regular meeting.

Section 10. Bylaws Available to Public.

Upon adoption, these Bylaws and any Procedural Rules adopted by the Commission pursuant to Section 7.3 hereof shall be transmitted to each member of the Commission, to the City Council, and to the City Clerk. Copies of the Bylaws and Procedural Rules shall be made available to the public in the Department of Planning and Community Environment and at each meeting of the Commission.

THE FOREGOING BYLAWS WERE FIRST PRESENTED ON _____, WERE ADOPTED BY MAJORITY VOTE OF THE PALO ALTO PLANNING AND TRANSPORTATION COMMISSION AT A REGULAR MEETING HELD ON THE __TH DAY OF _____, 2005, AND SHALL BE EFFECTIVE ON _____ 1, 2005.



Introduction & Contents

The Planning and Transportation Commission (“Commission”) is required by its Bylaws to establish additional procedural rules governing the conduct of regular and special meetings of the Commission. These Procedural Rules supplement the Bylaws and are to be construed consistent with those Bylaws. In the event of any conflict between these Rules and the Bylaws, the Bylaws shall prevail.

These rules are organized in five sections.

Public Participation in Commission Meetings

This section explains the basic rules for speaking to the Planning and Transportation Commission. It covers things like when to speak, time limits, and how groups of speakers are handled.

Order of Commission Business; Site Visits; Off-site Meetings;

This section explains how the meeting agenda is prepared.

Motions, Debate & Voting

This section explains the simplified rules of parliamentary procedure the Commission follows (like Roberts’ Rules of Order, but simpler!).

Quasi-Judicial Proceedings

This section explains the special way the Commission handles hearings that raise constitutional due process concerns. These are usually hearings that seriously impact someone’s life, liberty or property.

Special Meetings/Committees

This section explains the purpose and process for special meetings and the use of Commission subcommittees.



I. **Public Participation in Commission Meetings**

A. Policy. It is the policy of the Commission to assure that members of the public have the opportunity to speak to any regular or special meeting agenda item before final action. In addition, an opportunity will be provided for members of the public to address the Commission on items within its purview but not on the agenda at each regular or special meeting. These rules establish the rights and obligations of persons who wish to speak during Commission meetings.

B. General Requirements.

1. Accessibility. Palo Alto makes every reasonable effort to accommodate the needs of the disabled. Any provision of these rules may be modified if needed to provide reasonable accommodation. Persons needing assistance should contact: Fred Herman, ADA Director, City of Palo Alto, 650/329-2496 (voice) or 650/328-1199 (TDD).

2. Presiding Officer's Permission Required. The presiding officer at Commission meetings (usually the Chair or Vice-Chair) is responsible for preserving strict order and decorum. This is important in order to assure a fair opportunity for everyone to participate in an open and civil setting.

a) Any person desiring to address the Commission must first get the permission of the presiding officer by completing a speaker card and handing the card to the Secretary.

b) The presiding officer shall recognize any person who has given a completed card to the Secretary.

c) Except as provided by these rules, No person, other than a Commissioner and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.

3. Recording and Identification. Persons wishing to address the Commission shall comply with the following:

a) Use the microphone provided for the public and speak in a recordable tone, either personally or with assistance, if necessary.

b) State their name and City of residence.



4. Specific Requirements and Time Limits.

a) Oral Communications. Oral communications shall be limited to three minutes per speaker and will be limited to a total of thirty minutes for all speakers combined.

1) Oral communications may be used only to address items that are within the Commission's subject matter jurisdiction, but not listed on the agenda.

2) Oral communications may not be used to address matters where the receipt of new information would threaten the due process rights of any person.

3) All remarks shall be addressed to the Commission as a body and not to any *individual* member.

4) Commissioners shall not enter into debate or discussion with speakers during oral communications.

5) The presiding officer may request that City staff respond to the person speaking and/or the Commission at a later date.

b) Other Agenda Items. Public comments or testimony on agenda items other than Oral Communications shall be limited to a maximum of five minutes per speaker unless additional time is granted by the presiding officer. The presiding officer may reduce the allowed time to speak to three minutes if necessary to accommodate a larger number of speakers.

1) Spokesperson for a Group. When any group of people wishes to address the Commission on the same subject matter, the presiding officer will inform the group that a spokesperson may be chosen by the group to address the Commission. Spokespersons who are representing a group of five or more people who are identified as present at the Commission meeting at the time of the spokesperson's presentation will be allowed up to ten minutes at the



discretion of the presiding officer, provided that the non-speaking members agree not to speak individually.

2) Quasi-Judicial Hearings. In the case of a quasi-judicial hearing, applicants and/or appellants, as applicable, shall be given fifteen minutes each for their opening presentation and three minutes for rebuttal before the hearing is closed. When the appeal is brought by a party other than the applicant, the appellant's opening statement should precede the applicant's opening statement and the appellant's rebuttal should follow the applicant's rebuttal. In the event a request is made and the need for additional time is clearly established, the presiding officer shall independently, or may upon advice of the Commission's attorney, grant sufficient additional time to allow an adequate presentation by the applicant or appellant in a hearing required by law. A person who participates during the fifteen minute period allotted for appellants and/or applicants may not speak during the time allotted for public comment without first securing the permission of the presiding officer.

3) Addressing the Commission after a Motion. Following the time for public input and once the matter is returned to the Commission no person shall address the Commission without first securing the permission of the Commission ~~so to do~~, subject to approval of the ~~City Attorney~~ Commission's Attorney with respect to any hearing required by law.

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II. Commission Meeting & Agenda Guidelines

A. Any Commission member who is unable to attend a regular or special meeting of the Commission shall notify the Commission Chair and/or Secretary as soon as possible before being absent from a Commission meeting.

B. At seven p.m. on the day of each regular meeting, the Commission members, Secretary, and such other city officers and staff as have been requested to be present or whose presence is necessary and appropriate to the conduct of the Commission's business, shall take their regular stations in the meeting room, and the business of the Commission shall be taken up for consideration and disposition in the following order; except, that with the consent of the Commission members present, matters may be taken up out of order, and except as provided in subsection C.:

- (1) Call to Order
- (2) Roll call;
- (3) Oral communications upon items not appearing elsewhere on the Commission's agenda;
- (4) Agenda changes, additions, and deletions;
- (5) Unfinished business;
- (6) New business;
- (7) Reports of committees;
- (8) Reports of officials;
- (9) Approval of minutes of previous meeting(s);
- (10) Commission member Questions, Comments and Announcements.
- (11) Adjournment.

C. Commission Member Question, Comments and Announcements. During Commission member Questions, Comments and Announcements, Commission members may question staff briefly on matters upon which Commission has taken action or given



direction, make general comments as a reference to staff on factual matters of community concern, or make brief announcements in a manner consistent with Government Code section 54952.2 (Brown Act). New assignments will not be given nor will major policy issues be discussed or considered. To the extent possible, Commission members will confer with staff before raising matters under this agenda item. This agenda item will generally be limited to 15 minutes in length and the public may not speak to matters discussed.

D. Items to be Considered After Ten p.m. Before nine p.m. the Commission will determine whether it will commence any new items after ten p.m. and shall determine which specific items will be taken up. The Commission will make every reasonable effort to complete ~~the agenda~~~~the meeting~~ before eleven p.m.

E. Scheduling of Closed Session. Any closed sessions shall be scheduled to the extent possible and appropriate prior to regular or special Commission meetings. Any closed session may be scheduled during or after a regular or special Commission meeting.

F. Meeting Adjourned Without Date Certain. When a regular meeting is adjourned without specification of a date certain for consideration of continued business, all unfinished items will be listed under unfinished business on the next regular Commission meeting agenda; except that, where deemed appropriate, the Secretary may place those items in a different order on the agenda.

G. Continued Items; Meeting Adjourned to Date Certain. When an item on the agenda is continued to a subsequent meeting, or when a meeting is adjourned to a date certain, all continued and/or unfinished items will be listed under unfinished business on such agenda unless the Secretary deems it appropriate to place such item at a different location on such agenda.

H. No final action shall be taken on matters other than those on the agenda; provided, however, that matters deemed to be emergencies or of an urgent nature by any Commission member, the City Manager, the Director of Planning and Community Environment, or the Commission's Attorney, with an explanation of the emergency or urgency stated in open Commission meeting and deemed adequate under state law (Brown Act) by the Commission's Attorney may, with the consent of two-thirds of all members, or if less than two-thirds are present, with the consent of all members, be considered and acted upon by the Commission.

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III. Motions, Debate & Voting

A. Policy. It is the policy of the Commission to follow simplified rules of parliamentary procedure for motions, debate and voting. These rules focus on the types of motions the Commission can debate and when those motions are properly used.

1. Purpose. The purpose of these rules is to facilitate orderly and thorough discussion and debate of Commission business. These rules shall not be applied or used to create strategic advantage or unjust results.

2. Summary of Rules-. Palo Alto does not follow Roberts Rules of Order. See the Summary Table below.

B. Motions. A motion is a formal proposal by a Commissioner asking that the Commission take a specified action. A motion must receive a second before the Commission can consider a matter.

1. Types of mMotions. There are two kinds of motions. These are the “main” motion and any secondary motions. Only one main motion can be considered at a time.

2. Procedure.

a) Get the Floor. A Commissioner must receive the permission of the presiding officer before making a motion.

b) State the Motion. A motion is made by a Commissioner (the “maker”) stating his or her proposal. Longer proposals can be written and may be in the form of a resolution.

c) Second Required. Any other Commissioner (including the presiding officer) who supports the proposal (or who simply wishes it to be considered) may “second” the motion without first being recognized. A motion to raise a question of personal privilege does not require a second.

d) Motion Restated. The presiding officer should restate the motion for the record, particularly if it is long or complex.



e) Lack of a Second. If there is no second stated immediately, the presiding officers should ask whether there is a second. If no Commissioner seconds the motion the matter will not be considered.

f) Discussion. The maker shall be the first Commissioner recognized to speak on the motion if it receives a second. Generally Commissioners will speak only once with respect to a motion. If the presiding officer or Commission permits any Commissioner to speak more than once on a motion, all Commissioners shall receive the same privilege.

g) Secondary Motions. Secondary motions may be made by a Commissioner upon getting the floor.

h) Action. After discussion is complete the Commission will vote on the motion under consideration.

3. Precedence of Motions. When a motion is before the Commission, no new main motion shall be entertained. The Commission recognizes the following secondary motions, which may be considered while a main motion is pending. These motions shall have precedence in the order listed below. This means that a secondary motion that is higher on the list will be considered ahead of a pending secondary motion that is lower on the list:

- a) Fix the time to which to adjourn;
- b) Adjourn;
- c) Take a recess;
- d) Raise a question of privilege;
- e) Lay on the table;
- f) Previous question (close debate);
- g) Limit or extend limits of debate;
- h) Motion to continue to a certain time;
- i) Refer to committee;
- j) Amend or substitute;

4. Secondary Motions Defined. The purpose of the allowed secondary motions is summarized in the following text and table.

a) Fix the time to which to adjourn. This motion sets a time for continuation of the meeting. It requires a second, is amendable and is debatable only as to the time to which the meeting is adjourned.

b) Adjourn. This motion ends the meeting or adjourns it to another time. It requires a second and is not debatable except to set the time



to which the meeting is adjourned, if applicable. A motion to adjourn shall be in order at any time, except as follows: (a) when repeated without intervening business or discussion; (b) when made as an interruption of a member while speaking; (c) when the previous question has been ordered; and (d) while a vote is being taken.

c) Take a recess. This motion interrupts the meeting temporarily. It is amendable, but is not debatable.

d) Raise a question of personal privilege. This motion allows a Commissioner to address the Commission on a question of personal privilege and shall be limited to cases in which the Commissioner's integrity, character or motives are questioned, or when the welfare of the Commission is concerned. The maker of the motion may interrupt another speaker if the presiding officer recognizes the "privilege." The motion does not require a second, is not amendable and is not debatable.

e) Lay on the table. This motion is used to interrupt business for more urgent business. A motion to lay on the table requires a second, is not amendable and is not debatable. It shall preclude all amendments or debate of the subject under consideration. If the motion prevails, and the subject is tabled, the matter must be reagendaized in the future if further consideration is to be given to the matter.

f) Previous question. This motion "calls the question" by closing debate on the pending motion. A motion for previous question requires a second, is not debatable and is not amendable. It applies to all previous motions on the subject unless otherwise specified by the maker of the motion. If motion for previous question fails, debate is reopened; if motion for previous question passes, then vote on the pending motion. A motion for previous question requires a two-thirds vote of those Commissioners present and voting.

g) Limit or extend debate. This motion limits or extends the time for the Commission or any Commissioner to debate a motion. It requires a second, is amendable and is not debatable. The motion requires a two-thirds vote of those Commissioners present and voting.

h) Continue to a certain time. This motion continues a matter to another, specified time. It requires a second, is amendable and is debatable as to propriety of postponement and time set.



i) Refer to a city agency, body, committee, board, commission or officer. This motion sends a subject to another city agency, body, committee, board, commission or officer for further study and report back to the Commission, at which time subject is fully debated. It requires a second, is amendable, and is debatable only as to the propriety of referring. The substance of the subject being referred shall not be discussed at the time the motion to refer is made.

j) Amend or substitute. This motion changes or reverses the main motion. It requires a second, is amendable, and is debatable only when the motion to which it applies is debatable. A motion to amend an amendment is in order, but one to amend an amendment to an amendment is not. An amendment modifying a motion is in order but an amendment raising an independent question or one that is not germane to the main motion shall not be in order. Amendments take precedence over the main motion and the motion to postpone indefinitely.



DRAFT -- Planning and Transportation Commission Procedural Rules

Motion	Description	2 nd Req'd	Debatable	Amendable	2/3 Vote
Fix the time to which to adjourn	Sets a next date and time for continuation of the meeting	X	Only as to time to which the meeting is adjourned	X	
Adjourn	Sets time to adjourn. Not in order if (a) repeated without intervening business (b) made as an interruption of a member while speaking; (c) the previous question has been ordered; and (d) while a vote is being taken	X	Only to set the time to which the meeting is adjourned		
Take a recess	Purpose is to interrupt the meeting	X		X	
Raise a question of privilege					
Lay on the table	Interrupts business for more urgent business	X			
Previous question (close debate or "call the question")	Closes debate on pending motion	X			X
Limit or extend limits of debate	Purpose is to limit or extend debate	X		X	X
Motion to continue to a certain time	Continues the matter to another, specified time	X	X	X	
Refer to committee	Sends subject to another city agency, body, committee, board, commission or officer for further study and report back to the Commission, at which time subject is fully debated	X	Only as to propriety of referring, not substance of referral	X	
Amend or substitute	Modifies (or reverses course of) proposed action. Cannot raise independent question. Can amend an amendment, but no further.	X	Only if underlying motion is debatable	X	



C. Debate and Voting.

1. Presiding officer to state motion. The presiding officer shall assure that all motions are clearly stated before allowing debate to begin. The presiding officer may restate the motion or may direct City staff to restate the motion before allowing debate to begin. The presiding officer shall restate the motion or direct City staff to restate the motion prior to voting.
2. Presiding officer may debate and vote. The presiding officer may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all Commissioners. The presiding officer shall not be deprived of any of the rights and privileges of a Commissioner.
3. Division of question. If the question contains two or more divisible propositions, each of which is capable of standing as a complete proposition if the others are removed, the presiding officer may, and upon request of a Commissioner shall, divide the same. The presiding officer's determination shall be appealable by any Commissioner.
4. Withdrawal of motion. A motion may not be withdrawn by the maker without the consent of the Commissioner seconding it.
5. Change of vote. Commissioners may change their votes before the next item on the agenda is called.
6. Voting. On the passage of every motion, the vote shall be taken by voice and entered in full upon the record.
7. Silence constitutes affirmative vote. Commissioners who are silent during a voice vote shall have their vote recorded as an affirmative vote, except when individual Commissioners have stated in advance that they will not be voting.
8. Failure to vote. It is the responsibility of every Commissioner to vote unless disqualified for cause accepted by the Commission or by opinion of the Commission's Attorney. No Commissioner can be compelled to vote.
9. Abstaining from vote. The abstainer chooses not to vote and, in effect, "consents" that a majority of the quorum of the Commissioners present may act for him or her.
10. Not participating. A Commissioner who disqualifies him or herself pursuant to the Political Reform Act of 1974 because of any financial interest shall disclose the nature of the conflict and may not participate in the



discussion or the vote. A Commissioner may otherwise disqualify him or herself due to personal bias or the appearance of impropriety.

11. Tie votes. Tie votes may be reconsidered during the time permitted by these rules on motion by any member of the Commission voting aye or nay during the original vote. Before a motion is made on the next item on the agenda, any member of the Commission may make a motion to continue the matter to another date. Any continuance hereunder shall suspend the running of any time in which action of the Commission is required by law. Nothing herein shall be construed to prevent any Commissioner from agendaing a matter that resulted in a tie vote for a subsequent meeting.

12. Motion to reconsider. A motion to reconsider any action taken by the Commission may be made only during the meeting or adjourned meeting thereof when the action was taken. A motion to reconsider requires a second, is debatable and is not amendable. The motion must be made by one of the prevailing side, but may be seconded by any Commissioner. A motion to reconsider may be made at any time and shall have precedence over all other motions, or while a Commissioner has the floor, providing that no vested rights are impaired. The purpose of reconsideration is to bring back the matter for review. If a motion to reconsider fails, it may not itself be reconsidered. Reconsideration may not be moved more than once on the same motion. Nothing herein shall be construed to prevent any Commissioner from making a motion to rescind such action at a subsequent meeting of the Commission.

13. Appeal from the decision of presiding officer. When the rules are silent, the presiding officer shall decide all questions of order, subject to appeal by a Commissioner. At the presiding officer's discretion, the presiding officer may submit the question to the Commission, in which case a majority vote shall prevail. Any decision or ruling of the presiding officer may be appealed by request of any member. A majority vote is required to reverse the decision of the presiding officer.

14. Getting the floor; improper references to be avoided. Every Commissioner desiring to speak shall address the chair and, upon recognition by the presiding officer, every Commissioner shall be confined to the question under debate, avoiding all indecorous language and personal attacks.

15. Interruptions. Except for being called to order, a Commissioner once recognized, shall not be interrupted when speaking, except as otherwise provided for in these rules. A Commissioner called to order while speaking



DRAFT--Planning and Transportation Commission Procedural Rules

shall cease speaking until the question or order is determined, and, if in order, said Commissioner shall be permitted to proceed.

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IV. Additional Requirements for Quasi-Judicial Hearings and Planned Community Zoning Applications

A. Policy. It is the policy of the Commission to assure that the due process rights of all persons are protected during City hearings. A "quasi-judicial" hearing is a hearing that requires a higher level of procedural due process because of the potential impact on life, liberty or property. Usually, quasi-judicial hearings involve a single parcel of land and apply facts and evidence in the context of existing law. Findings must be stated to explain the evidentiary basis for the Commission's decision.

1. Purpose. These rules are intended to assure that Commission decision-making on quasi-judicial matters is based upon facts and evidence known to all parties.

B. General Requirements.

1. Quasi-Judicial Proceedings Defined. Quasi-judicial proceedings subject to these procedural rules include hearings involving the following matters:

- a) Conditional Use Permits
- b) Variances
- c) Home Improvement Exceptions
- d) Design Enhancement Exceptions
- e) Subdivisions, other than final map approvals
- f) Architectural Review Site and Design Review
- ~~g) Assessment protest hearings~~
- ~~h)g) Other matters as determined by the City Commission's Attorney~~
- ~~i)h) Appeals related to any of the above~~
- ~~ii) Environmental Review relating to any of the above~~

2. Restrictions on Commission Communications Outside of Quasi-Judicial Hearings. It is the policy of the Commission to discourage the gathering and submission of information outside of any required hearing when such information will impair the Commission's impartiality on a quasi-judicial decision. Conversations or correspondence with an applicant or an applicant's agent about a pending application outside of a quasi-judicial hearing are strongly discouraged. The following procedural guidelines are intended to implement this policy, but shall not be construed to create any remedy or right of action.



a) Identification of Quasi-Judicial Matters. The Commission's Attorney, in conjunction with the Director of Planning and Community Environment, will identify agenda items involving quasi-judicial decisions on Commission agendas. This identification is intended to inform the Commission, interested parties, and the public that this policy will apply to the item.

b) Commissioners to Track Contacts. Commissioners will use their best efforts to track contacts pertaining to such identified quasi-judicial decision items. Contacts include conversations, meetings, site visits, mailings, or presentations during which substantial factual information about the item is gathered by or submitted to the Commissioner.

c) Disclosure. When the item is presented to the Commission for hearing, Commissioners will disclose any contacts that have significantly influenced their preliminary views or opinions about the item. The disclosure may be oral or written, and should explain the substance of the contact so that other Commissioners, interested parties, and the public will have an opportunity to become apprised of the factors influencing the Commission's decision and to attempt to controvert or rebut any such factor during the hearing. Disclosure alone will not be deemed sufficient basis for a request to continue the item. A contact or the disclosure of a contact shall not be deemed grounds for disqualification of a Commissioner from participation in a quasi-judicial decision unless the Commissioner determines that the nature of the contact is such that it is not possible for the Commissioner to reach an impartial decision on the item.

d) No Contacts after Hearings. Following closure of the hearing, and prior to a final decision, Commissioners will refrain from any contacts pertaining to the item, other than clarifying questions directed to City staff.

3. Written Findings Required. On any matter for which state law or City ordinance requires the preparation of written findings, the staff report and other materials submitted on the matter will contain findings proposed for adoption by the Commission. Any motion directly or impliedly rejecting the proposed findings must include a statement of alternative or modified findings or a direction that the matter under consideration be continued for a reasonable period of time in order for staff to prepare a new set of proposed findings consistent with the evidence which has been presented and the decision which is anticipated.



4. Rules of Evidence. Commission hearings need not be conducted according to formal rules of evidence. Any relevant evidence may be considered if it is the sort of evidence upon which responsible persons rely in the conduct of serious affairs. The presiding officer may exclude irrelevant or redundant testimony and may make such other rulings as may be necessary for the orderly conduct of the proceedings while ensuring basic fairness and full consideration of the issues involved. Evidentiary objections shall be deemed waived unless made in a timely fashion before the Commission.

5. Burden of Proof. The applicant and appellant shall bear the burden of proof on all aspects of the action or relief they seek. The person with the burden of proof must offer evidence to the Commission to support his or her position.

6. Commissioners Who are Absent During Part of a Hearing. A Commissioner who is absent from any portion of a hearing conducted by the Commission may vote on the matter provided that he or she has watched or listened to a video or radio broadcast, or video or audio recording, of the entire portion of the hearing from which he or she was absent and if she or he has examined all of the exhibits presented during the portion of the hearing from which he or she was absent and states for the record before voting that the Commissioner deems himself or herself to be as familiar with the record and with the evidence presented at the hearing as he or she would have been had he or she personally attended the entire hearing.

7. Appeals. Appeals to the Commission shall be conducted *de novo*, meaning that new evidence and arguments may be presented and considered. All matters in the record before any other City board, commission or official shall be part of the record before the Commission.

C. Record Before the Commission. The Records before the Commission on any matter shall be deemed to include the Comprehensive Plan, the Municipal Code and any relevant plans or studies which have been formally accepted or approved by the Commission or by the City Council.

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V. Special Meetings/Committees

A. Special Meetings. A Special Meeting may be called by the presiding officer or by a majority of the Commission for a day and time other than a regularly scheduled meeting. A Special Meeting shall be set by delivering written notice to each member of the Commission and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the Commission.

B. Retreats. At least once a year, the Commission shall hold an off-site retreat. The retreat shall be fully noticed and open to the public. The purpose of the retreat shall be to review the work of the Commission over the prior year, discuss items of policy and general interest, changes to the Brown Act or any other changes to the law that effects the conduct of meetings and to review the Bylaws and procedures. Retreats may be conducted informally and the rules of Motions, Debate and Voting may be suspended for the duration of the Retreat. No final decisions shall be made at a retreat, and no formal votes may be taken.

C. Site Visits/Off-Site ~~Regular~~ Meetings. A regular or special meeting of the Commission may be held off-site provided that proper notice to the public is given. Other than Retreats, off-site meetings should be limited to those circumstances in which presiding officer, the Director of Planning and Community Environment or a majority of the Commission determines that an off-site meeting is necessary for the evaluation of a matter before the Commission or is necessary to allow for broader community input.

D. Study Sessions. Study Sessions are meetings during which the Commission receives information about City business in an informal setting. The informal study session setting is intended to encourage in-depth presentations by City staff, and detailed questioning and brainstorming by the Commission. The Commission may discuss the material freely without following formal rules of parliamentary procedure. Staff may be directed to bring matters back for Commission consideration at future meetings, but no action can be taken. ~~During regular study sessions, public comments are received together with oral communications at the end of the session.~~ During ~~a special~~ study sessions, public comments will be heard at the end of any Commission discussion, but oral communications will be consolidated with the oral communications section of the regular meeting, if one follows the study session. Study sessions shall not be for the purpose of taking



evidence with respect to a project. Neither the Commission or staff may rely upon information obtained or comments made during a Study Session unless such information or comments are reintroduced during a subsequent noticed public hearing on the merits of the item(s) discussed at the Study Session. Decorum rules still apply to the behavior of the Commission and public.

E. Committees. The authority to create standing committees is limited to the City Council and the City Manager. The Commission may create ad hoc subcommittees to study Commission business in greater depth than what is possible in the time allotted for Commission meetings. No more than three Commissioners may participate on any ad hoc subcommittee. An ad hoc subcommittee shall be made up of Commission members only; shall be formed for a specified duration, not to exceed six months; and shall be limited to the discussion of a specific subject matter or the completion of a defined task.

F. Closed Sessions. In the event that the City Attorney's Office advises that a closed session of the Commission is authorized and necessary, the Commission shall comply with all rules adopted by the City Council for the conduct of closed sessions and with all applicable state law.

G. Pre-Commission Meetings. Prior to a scheduled meeting, the Chair and Vice-chair should meet with staff to plan how the meeting will be conducted, to identify any issues or questions that may need greater staff preparation and to discuss future meetings. The purpose of the meeting is not to discuss policy issues.

H. Commission Representation at City Council. Each month, one member of the Commission will attend all City Council meetings in which the business of the Commission has been agendaized for Council review. The Commission representative will present the Commission's recommendations and answer any questions the Council may have. The Commissioners will rotate this responsibility.

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