

**CITY OF SAN DIEGO
M E M O R A N D U M**

DATE: November 29, 2014

TO: Planning Commissioners

FROM: Mike Westlake, Assistant Deputy Director, Development Services Department

SUBJECT: PERMANENT RULES OF THE PLANNING COMMISSION

Attached for the Planning Commission's review, consideration and adoption is a draft set of Permanent Rules for the Planning Commission. Pursuant to the City Charter and San Diego Municipal Code Section 22.0101, the City Council has been operating under the Permanent Rules of Council for many decades; however no rules have ever been formally established for the Planning Commission.

The attached set of draft Planning Commission rules is based primarily on the existing Permanent Rules of Council. The intent of these rules is to assist the Planning Commission to more consistently, effectively and efficiently fulfill its obligations to conduct public hearings on planning and land use matters.

These rules are also intended to inform and assist the Planning Commission through procedural matters that have frequently generated questions during hearings, and also to improve the management and efficiency of the meetings. For instance, rules 3.5 and 3.6 are proposed to emphasize the need for quorums and predictable attendance at hearings. In an effort to support these attendance rules and to assist the Chair in managing the meetings, it is proposed that the Planning Commission's Tentative Schedule of Meetings include additional information indicating expected absences and/or recusals (see attached draft Tentative Schedule – last page of this package).

The Permanent Rules *of the* Planning Commission



Permanent Rules of the Planning Commission

Draft November, 2014

Table of Contents

Rule 1: Time and Place of Meetings

- 1.1 Time
- 1.2 Place

Rule 2: Procedure for Commission Meetings

- 2.1 Docket
- 2.2 Order of Business
- 2.3 Public Comment
- 2.4 Parliamentary Procedure
- 2.5 Procedure for Docket Items
- 2.6 Procedure for Reconsiderations
- 2.7 Suspension of Permanent Rules

Rule 3: Duties of Commissioners

- 3.1 Collective Concurrence Prohibited
- 3.2 Ex Parte Communications
- 3.3 Disclosure of Ex Parte Communications
- 3.4 Voting after Absence from a Meeting
- 3.5 Scheduling of Planning Commission Meetings
- 3.6 Attendance at Meetings

Rule 4: Appointment of the Chair and Vice-Chair

- 4.1 Title
- 4.2 Appointment of Chair and Vice-Chair
- 4.3 Procedure when both Chair and Vice-Chair are absent

Rule 5: The Planning Commission Docket and Back-Up Material

- 5.1 Preparation and Delivery
- 5.2 Docket Order
- 5.3 Posting the Docket
- 5.4 Material Submitted by Interested Persons

Rule 6: Voting Rules and Policies

- 6.1 Votes
- 6.2 Appeals
- 6.3 Inability to Obtain Four Votes
- 6.4 When a Bare Quorum is Present

Rule 7: Amendment of Permanent Rules

Rule 1: TIME AND PLACE OF MEETINGS

1.1. Time: The regular weekly meetings of the Planning Commission (Commission) shall be scheduled on Thursday and begin at 9:00 a.m.

1.2. Place: Regular Commission meetings shall be held in the Council Chambers of the City Administration Building, Community Concourse, in the City of San Diego, California.

Rule 2: PROCEDURE FOR COMMISSION MEETINGS

2.1. Docket: A docket covering the Commission meeting each week shall be produced by the Planning Commission Secretary.

2.2. Order of Business: The order of business for Commission meetings shall be as follows:

1. Announcements/Public Comment.
2. Requests for Items to be Continued or Withdrawn.
3. Requests for Items to be placed on the Consent Agenda.
4. Director's Report.
5. Commission Comment.
6. Agenda Items.
7. Adjournment.

2.3. Public Comment: Every docket for a regular Commission meeting shall provide a period on the docket for members of the public to address the Commission on items of interest to the public that are not on the docket but are within the jurisdiction of the Planning Commission Council. Speakers shall be limited to three minutes each and comments shall be limited to three minutes per subject regardless of the number of people registering to speak on that matter. The allowable time to speak may be limited to less than three minutes at the Chair's discretion. The Chair shall not permit any communication, oral or written, to be made or read where it does not bear on something which is within the subject matter jurisdiction of the Commission.

2.4. Parliamentary Procedure: In all cases not provided by these Rules, or other ordinance or resolution, Robert's Rules of Order Newly Revised will be used as a guide to the Commission's parliamentary procedure. Robert's Rules of Order notwithstanding, a "majority" of Commissioners means four Commissioners. A "majority vote" means the affirmative vote of four Commissioners. A "two-thirds vote" means the affirmative vote of five Commissioners.

2.5. Procedure for Docket Items: The following guidelines shall be used in considering any item and may be modified at the discretion of the Commission Chair or by a majority vote of the Commission setting different time limits:

- (a) Staff presentation (maximum of five minutes or as required due to project complexity).
- (b) Clarifying questions from the Commission (maximum of five minutes each).
- (c) Testimony by members of the public regarding the item (maximum of three minutes each or as the Chair determines appropriate).

- (d) Questions and Discussion. The order of recognition of a Commissioner desiring to speak shall be determined by the Chair in accordance with the request to speak. Each Commissioner shall be allowed the opportunity to speak and shall be limited to five minutes per person, inclusive of response from Staff and/or the Public. Each Commissioner has the right to obtain an additional three minutes upon request to the Chair, with the further right of any other member to yield all or a portion of such member's time to another member. Motions by Commissioners may be made at this time.
- (e) Call for a vote on the main motion or where no motion has been made, a request for a motion.

2.6. Procedure for Reconsideration: The Commission may vote to reconsider any matter to permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a changed situation that has developed since the taking of the original vote. A motion for reconsideration of any matter is subject to the following:

- (a) The Commission must first suspend these Permanent Rules by a two-thirds vote before it may vote on the request for reconsideration.
- (b) The motion to reconsider must be made by a member who voted on the prevailing side of the motion to be reconsidered.
- (c) A motion to reconsider shall be approved by a majority vote of the Commission.
- (c) If a motion to reconsider is approved, it shall set a date to rehear the matter, subject to all applicable noticing requirements.

2.7. Suspension of Permanent Rules: Any permanent rule of the Commission may be suspended temporarily by a vote of two-thirds of the Commission, provided that such temporary suspension shall apply only to the matter under immediate consideration, and in no case shall it extend beyond an adjournment.

Rule 3: DUTIES OF COMMISSIONERS

3.1. Collective Concurrence Prohibited: Except as authorized pursuant to California Government Code section 54953 allowing teleconferencing, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the Commission to develop a collective concurrence as to action to be taken on an item by the members of the Commission is prohibited.

3.2. Ex Parte Communications: In the interest of protecting the fair hearing process as well as preventing any appearance of bias on behalf of the Planning Commission, it shall be the policy of the Commission to avoid ex parte communication regarding quasi-judicial matters. Contact with applicants, appellants, citizen groups or other parties outside of the noticed hearing is considered ex parte communication, as is conducting a site visit or other independent investigation.

3.3. Disclosure of Ex Parte Communications: If Commissioners receive or participate in ex parte communications, the time, identity of the persons who participated, and a description of the content of the communication should be disclosed at the commencement of the hearing on that item.

3.4. Voting After Absence from a Meeting: Commission business shall not be impeded by the absence of a member as long as a quorum is present. Members absent from a Commission meeting shall be

required to study and review applicable material and the audio/visual evidence before voting thereafter on any such matters. Should a Commissioner be unable to prepare for the subsequent hearing, that Commissioner shall recuse from participating in that matter to allow the business of the Commission to proceed in a timely fashion.

3.5. Scheduling of Planning Commission Meetings: The Planning Commission Secretary shall establish a Tentative Schedule of Meetings as will permit a full attendance of all of the Planning Commissioners at all meetings. Any member of the Planning Commission may request a revision to the Tentative Schedule of Meetings at any time to assist in assuring that full quorums are present at all meetings.

3.6. Attendance at Meetings: It shall be the duty of each Commissioner to attend all scheduled meetings, and to participate and act on all items posted on the agenda (except on matters involving conflicts of interest). Any Commissioner who is unable to attend a meeting, or is unable to be available for the entire meeting, shall provide at least two weeks advance notice prior to that meeting. An unexcused absence shall be recorded for any Commissioner who fails to provide advance notice.

Rule 4: APPOINTMENT OF THE CHAIR AND VICE-CHAIR

4.1. Title: The official title of the Commission's presiding officers shall be Chair of the Planning Commission, and Vice-Chair of the Planning Commission.

4.2. Appointment of the Chair and Vice-Chair: Pursuant to the Office of the Mayor's practice, the Chair and Vice-Chair of the Planning Commission are designated by the Mayor.

4.5. Procedure When Both the Chair and Vice-Chair are Absent: In the absence of both the Chair and Vice-Chair, any member may call the meeting to order, and the Commission shall elect a Chair to preside during that session. Such office is terminated by the entrance of the Chair or Vice-Chair, or by the election of another temporary Chair, or the completion of the meeting where the election took place.

Rule 5: THE PLANNING COMMISSION DOCKET AND BACK-UP MATERIAL

5.1. Preparation and Delivery: The Planning Commission Docket and back-up material are prepared by, and delivered to the Commission by the Planning Commission Secretary. The Docket and back-up material are delivered to each Commissioner one week prior to the hearing. Environmental documents are delivered to the Commission two weeks prior to the hearing.

5.2. Docket Order: The Planning Commission Secretary shall format the Docket, and the action agenda items shall be listed in the following order: expedite projects; trailed items; appeals; continued items; all other items. The Chair, with consent from the Commission, may elect to hear projects out of order as the Commission or staff find appropriate.

5.3. Posting of the Docket: The Planning Commission Secretary shall post the Planning Commission Docket each week at least 72 hours prior to the hearing date. The Docket shall be posted both on the City's website, and in the breezeway of the City Administration Building.

5.4. Material Submitted by Interested Persons: Written material submitted to the Planning Commission Secretary 10 calendar days prior to the hearing date shall be included in the back-up

material distributed to the Commission in advance of the hearing. Large packets (five or more pages) submitted by interested persons must include 12 copies. All other material will be distributed to the Commission on the day of the hearing.

Rule 6: VOTING RULES AND POLICIES

6.1. Votes: It takes four affirmative votes from the Commission to take any action, unless otherwise stated herein or as may be required by law.

6.2. Appeals: Process 2 and 3 project decisions appealed to the Planning Commission require at least four affirmative votes to overrule the previous decision. If four affirmative votes cannot be obtained, the previous decision on the project stands.

6.3. Inability to Obtain Four Votes: If four affirmative votes cannot be obtained and the hearing presents a situation where an absent commissioner(s) is capable of participating at a future hearing, the matter is automatically trailed as unfinished business to the next meeting where the absent commissioner(s) can vote. The absent commissioner(s) should review the audio and/or visual record of the hearing and review all evidence before voting.

If four affirmative votes cannot be obtained and the circumstances above do not apply, the Commission may vote to continue the matter for additional information where there is a reasonable likelihood that additional information could alter the vote (subject to limitation set forth in the Permit Streamlining Act and generally not to exceed 90 days).

Alternatively, where a continuance for new information does not change the vote, the Commission may move to "table the item" or move to "take the item off docket". An action with four affirmative votes to "table the item" or "take the item off docket" is then considered a denial, which is appealable to the City Council by an interested person.

For Process Five decisions, where a continuance for new information does not change the vote, the Commission may act to forward the matter on to City Council with "No Recommendation" or with a "Split Recommendation."

6.4. When a Bare Quorum is Present: In any circumstance where only the bare quorum of commissioners are present (4) for a hearing, and an absent commissioner is capable of participating at a future hearing, it shall be the policy of the Commission to offer any applicant or appellant an opportunity to request a one-time continuance to a date certain when the absent commissioner(s) are expected to be present. When such a request is made by an interested person, it shall be the policy of the Commission to grant the continuance.

Rule 7: AMENDMENT OF PERMANENT RULES

No Permanent Rule of the Commission shall be amended except by a two-thirds majority vote of the Commission.

SAN DIEGO PLANNING COMMISSION
TENTATIVE SCHEDULE OF MEETINGS & PLANNING COMMISSION ATTENDANCE
DRAFT SAMPLE 2014

Updated October 14, 2014

All meetings will be held in Council Chambers, 12th floor City Administration Building, unless otherwise indicated. This is an internal, working document.

NOTE: Items that are Highlighted in *Red have Environmental reports MND/ND with the project.

October 23 DCA-Thomas	<i>Continued from October 9, 2014</i> PC-14-053 East- Cliff, Gables, Jack O Lantern – (SDP/CDP) – (30 min.) – S. Teasley #224418 PC-14-064 Lincoln Avenue Tentative Map – EXEMPT – (TM) – (5 min.) – R. Mezo #355725	<u>COMMISSIONERS ABSENT:</u> Whalen <u>COMMISSIONERS DEPARTING EARLY:</u> Wagner: 11:30 <u>COMMISSIONERS RECUSING:</u> None
October 30 DCA-Neuffer	<i>Expedite</i> PC-14-063 Camino Del Rio Mixed Use – (PDP/SDP/NDP) – (1 hour) – J. Fisher #341130 PC-14-066 St. John Garabed – (PDP/SDP/CUP/MHPA BLA) – (1.5 hrs.) – J. Fisher # 240283	<u>COMMISSIONERS ABSENT:</u> None. <u>COMMISSIONERS DEPARTING EARLY:</u> None. <u>COMMISSIONERS RECUSING:</u> Peerson: St. John Garabed.
November 6 DCA-Neuffer	PC-14-072 4235 3 rd Avenue – (Tentative Map) – (10 min.) – T. Daly # 360399 Discussion and Adoption of Permanent Rules for the Planning Commission – (45 min.) – M. Westlake	<u>COMMISSIONERS ABSENT:</u> None. <u>COMMISSIONERS DEPARTING EARLY:</u> None. <u>COMMISSIONERS RECUSING:</u> None.
November 13	NO MEETING	
November 20 DCA-Thomas	<i>Expedite</i> PC-14-072 Parkside at Dennerly Ranch – (PDP, SDP & VTM) – (30 min.) – L. Black #364849 <i>Appeal of Development Services Department's decision on September 4, 2014</i> PC-14-071 American Council on Exercise – (30 min.) – S. Teasley # 364572 PC-14-067 AT&T Maddox Park – EXEMPT – (CUP/NDP/NUP) – (10 mins.) – K. Lynch #325073 PC-14-068 Verizon – SD Zoo Generator – (EXEMPT) – (PDP) – (10 mins.) – K. Lynch #288374 PC-14-070 Rancho Del Sol – (SDP) – (30 min.) – S. Teasley # 157399	<u>COMMISSIONERS ABSENT:</u> None. <u>COMMISSIONERS DEPARTING EARLY:</u> None. <u>COMMISSIONERS RECUSING:</u> Peerson: Parkside.
November 27	NO MEETING – HOLIDAY	

SAN DIEGO PLANNING COMMISSION
TENTATIVE SCHEDULE OF MEETINGS & PLANNING COMMISSION ATTENDANCE

DRAFT SAMPLE 2014

Updated October 14, 2014

December 4		<u>COMMISSIONERS ABSENT:</u> None. <u>COMMISSIONERS DEPARTING EARLY:</u> None. <u>COMMISSIONERS RECUSING:</u> None.
December 11		<u>COMMISSIONERS ABSENT:</u> None. <u>COMMISSIONERS DEPARTING EARLY:</u> None. <u>COMMISSIONERS RECUSING:</u> None.
December 18	<p><i>Expedite</i> PC-14-073 CHW Arizona Street Development – (SDP, VTM, CUP & project specific Ordinance for additional density) – (45 min.) – L. Black #359872</p> <p><i>Continued from September 25, 2014; Appeal of Hearing Officer's decision on June 25, 2014</i></p> <p>PC-14-056 Whale Watch Way – (SDP/CDP) – (2 hrs.) – J. Fisher # 328415</p>	<u>COMMISSIONERS ABSENT:</u> None. <u>COMMISSIONERS DEPARTING EARLY:</u> None. <u>COMMISSIONERS RECUSING:</u> Peerson: CHW Arizona Street.
December 25	NO MEETING - HOLIDAY	