



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: March 17, 2016

TO: Chairman Haase and Members of the Planning Commission

FROM: PJ FitzGerald, Asst. Deputy Director, Development Services Department

SUBJECT: Item No. 8 – Updates to The Permanent Rules of the Planning Commission

The Permanent Rules of the Planning Commission were adopted by the Planning Commission on January 29, 2015. The Rules are intended to inform and assist the Planning Commission regarding procedural matters that have frequently generated questions during hearings, and to improve the management and efficiency of the meetings.

During their meeting of November 17, 2016, the Planning Commission discussed and evaluated whether any updates or modifications to the Rules were warranted in areas covering six topics (Attachment 1). Based upon the Planning Commission's discussion and staff review and research, staff recommends the following two changes to the Rules at this time:

- 1) Staff recommends that Rule 1 TIME AND PLACE OF MEETINGS be modified to include the ability of staff or the Planning Commission Secretary to change the time and place of meetings, as follows:

1.3 Change of Time and Place: The Commission or Planning Commission Secretary may change the time and place of meetings, provided all public noticing procedures are followed.

This change will allow flexibility to the Planning Commission Secretary to schedule meetings at an alternate time and location to Regular Commission meetings, as necessary, in response to suggestions from the Chair, and in order to address special circumstances where a community based meeting would be of importance and high value, such as workshops in the community for Community Plan Updates, and on very high profile projects of community-wide significance.

- 2) Staff recommends that a formal consent agenda be incorporated into Rule 2 PROCEDURE FOR COMMISSION MEETINGS, as follows:

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

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 Requests for Items to be Continued or Withdrawn.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

This change will add structure to the Agenda in the form of a formal Consent Agenda, allowing items meeting certain criteria to be placed on the Consent Agenda by the Commission Secretary, in consult with staff, for consideration by the Commission. Criteria will include that the item has no known opposition, the item is being recommended for approval by staff, and the item has the support of any recognized group providing formal recommendations to the Commission (such as the Historic Resource Board, the recognized Community Planning Group, etc). At the discretion of the Commission an item may be pulled from the Consent Agenda if the Commission desires to hear the item and/or opposition presents itself at the meeting.

Staff is not recommending any additional changes to the Rules at this time to address Site Visits, Land Development Code Referrals, or Recommendations to the City Council. In light of the fact that the Commission needs to observe specific rules relative to quasi-judicial hearings, staff is committed to providing the Commission the information they need to make decisions, including enhancements to reports and presentations, increased photographic evidence, and requesting project applicants to provide additional materials, as necessary.

Attachments:

1. DRAFT PC Resolution
2. Memorandum to the Planning Commission (October 7, 2017)
3. The Permanent Rules of the Planning Commission

PLANNING COMMISSION RESOLUTION NO. ____-PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN DIEGO
ADOPTING MODIFICATIONS TO THE PERMANENT RULES OF THE PLANNING COMMISSION

WHEREAS, on January 29, 2015, the Planning Commission of the City of San Diego established The Permanent Rules of the Planning Commission (Rules) pursuant to Resolution No. PC-4652; and

WHEREAS, the Planning Commission established the Rules in order to more consistently, effectively, and efficiently fulfill its obligations to conduct public hearings on planning and land use matters, to assist in procedural issues that have frequently generated questions during hearings, and to improve the management and efficiency of the meetings; and

WHEREAS, in furtherance of those same goals, the Planning Commission desires to make the following specific amendments to the Rules:

1.3. Change of Time and Place: The Commission or Planning Commission Secretary may change the time and place of meetings, provided all public noticing procedures are followed.

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

3. Consent Agenda and Requests for Items to be placed on or removed from the Consent Agenda.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego that The Permanent Rules of the Planning Commission are hereby amended as described within this Resolution.

Stephen Haase
Chair of the Planning Commission

Susan Peerson
Vice Chair of the Planning Commission

Adopted on: _____, 2017, by a vote of: _____ .



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: October 7, 2016

TO: Chair Haase and Members of the Planning Commission

FROM: Elyse Lowe, Deputy Director, Development Services Department

SUBJECT: Item No. 10 - Discussion of The Permanent Rules of the Planning Commission and Staff Procedures Regarding Planning Commission-Related Matters

The Permanent Rules of the Planning Commission were adopted by the Planning Commission on January 29, 2015. The Rules are intended to inform and assist the Planning Commission regarding procedural matters that have frequently generated questions during hearings, and to improve the management and efficiency of the meetings. The Planning Commission has expressed interest in amending the Rules.

Feedback provided by Commissioners includes the topics listed. The following is information for the Planning Commission's consideration and discussion on these topics. It is anticipated that following discussion by the Commission, staff will research the topics, and bring back amendments to the Rules based upon the Commission's motion(s).

Possible topics for discussion for changes to the Permanent Rules of the PC or staff's procedures regarding Planning Commission-related matters:

1. Consent Agenda

One or more Commissioners may be interested in a procedure to allow the Planning Commission Secretary to prepare items for a Consent Agenda.

City Staff will return with a recommendation based on the Planning Commissioners' feedback.

2. Site Visits

One or more Commissioners desire to discuss the issue of site visits. Site visits are currently not allowed. However, one or more Commissioners may wish to have the ability to view the community context of a project in person. The ability to view project sites using Google or

Google Street View has also been suggested. Commissioners have stated that having on the aerial images and the plan sets are not adequate to fully understand the issues of a site. One Commissioner specifically requested guided walking and/or driving tour site visits for Community Plan Updates.

Commissioners noted the Historical Resources Board requires site visits as a best practice for increasing knowledge and understanding of the resource in its physical setting. The HRB procedures require that only an HRB member who has visited the site be allowed to vote on a property considered for historic designation. A site specific waiver provision is included, and must be voted on by a majority of the Board.

In comparison to the Planning Commission, the Historic Resources Board only meets monthly, and the meeting schedule provides increased opportunity for the Board members to meet the site visit requirement.

Any practices that may allow site visits would require review by the City Attorney's Office, for the purpose of determining whether such practices could be created in a manner that complies with applicable law.

City staff will consult with the City Attorney's Office and return with a recommendation based on the Planning Commissioners' feedback.

3. Land Development Code Referrals

One or more Commissioners expressed the desire to amend the Rules to include a provision that the Planning Commission, by a majority vote, may refer a specific policy issue for inclusion in updates to the Land Development Code.

City Staff will return with a recommendation based on the Planning Commissioners' feedback.

4. Recommendation to the City Council

One or more Commissioners suggested adding language to the Permanent Rules to formalize a procedure for designating a representative to represent the Planning Commission before the City Council.

City staff will return with a recommendation based on the Planning Commissioners' feedback.

5. Informal Community Workshops

One or more Commissioners expressed a desire to hold Planning Commission workshops

associated with Community Plan Updates in the community, and not solely at City Hall. A specific request for was made for a community workshop format to allow stakeholders, community group members, etc. to participate in a charrette format with the Commissioners. It was suggested that having an offsite community meeting recognizes the large area San Diego covers and that some community members may have difficulty getting to downtown San Diego for the hearing.

Lastly, a Commissioner stated a desire for informal community workshops to provide feedback after the existing conditions, identification of key issues and challenges, were identified but prior to a written draft plan; and a workshop (after the initial draft plan) prior to Planning Commission hearing the Plan Update.

City staff is open to discussion on this item, but feels it is important to point out the extensive outreach process that is conducted for Community Plan Updates. An example of the Mission Valley Community Plan update process (in progress) is attached to provide perspective on the community outreach associated with a Plan update.

City staff will return with a recommendation based on the Planning Commissioners' feedback.

Staff Recommendation

It is the recommendation of City staff to have the Commission engage in discussion of the Rules, and to direct staff to research the suggested changes and work with the City Attorney's Office as appropriate to come back with an analysis and draft language for future discussion and adoption.

Attachments:

1. The Permanent Rules of the Planning Commission
2. Historical Resources Board Procedures
3. Mission Valley Community Plan Update Community Engagement Schedule

The Permanent Rules *of the* Planning Commission





PLANNING COMMISSION RESOLUTION NO. PC-4652 THE PERMANENT RULES OF THE PLANNING COMMISSION

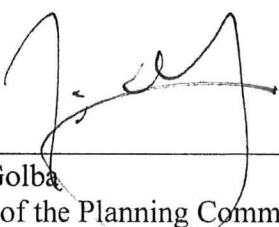
WHEREAS, the Planning Commission, established in San Diego Charter section 41(c), conducts public hearings on a variety of land use related actions including land development permits, subdivision maps, re-zonings, community plans and the General Plan, and considers land use ordinances, programs and such other improvements as the City Council may, by ordinance, determine; and

WHEREAS, 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; and

WHEREAS, the Planning Commission requested the establishment of permanent rules in order to more consistently, effectively and efficiently fulfill its obligations to conduct public hearings on planning and land use matters, to assist in procedural issues that have frequently generated questions during hearings, and to improve the management and efficiency of the meetings; and

WHEREAS, with City staff support the Planning Commission drafted a set of permanent rules, and conducted two public hearings to review, discuss and propose edits to these rules.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego that The Permanent Rules of the Planning Commission, dated January 29, 2015, are hereby approved by the Planning Commission, a copy of which is attached hereto and made a part hereof.



Tim Golba
Chair of the Planning Commission



Stephen Haase
Vice Chair of the Planning Commission

Adopted on: January 29, 2015 by a vote of 7-0.

Permanent Rules of the Planning Commission

Table of Contents

Rule 1: Time and Place of Meetings

- 1.1 Time
- 1.2 Place
- 1.3 Change of Time and 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
- 3.7 Conflict of Interest

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 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, located at 202 C Street, 12th Floor, San Diego, California, 92101.

1.3. Change of Time and Place: The Commission may change the time and place of meetings, provided all public noticing procedures are followed.

Rule 2: PROCEDURE FOR COMMISSION MEETINGS

2.1. Docket: A docket covering the Commission meeting 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/Non-Agenda Public Comment.
2. Requests for Items to be Continued or Withdrawn.
3. Requests for Items to be placed on the Consent Agenda.
4. Approval of the Agenda.
5. Director's Report.
6. Commission Comment.
7. Agenda Items.
8. Adjournment.

2.3. Non-Agenda 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. 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. The Commission is composed of seven (7) members. 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 may 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.
- (b) Clarifying questions from the Commission.
- (c) Testimony by members of the public regarding the item (maximum of three minutes each or as the Chair determines appropriate).
- (d) Planning Commission Questions and Discussion: The goal of the Commission is to ensure a balanced dialogue among its members, staff and the public. Each Commissioner shall be provided an equal period of time to initially speak based upon the order of recognition as determined by the Chair in accordance with the recognition light panel or as determined during the hearing. Subsequent to all Commissioners recognized by the Chair completing their initial round of comments, an additional equal amount of time shall be provided to each Commissioner in the initial order of recognition. Any Commissioner who did not previously comment may be recognized upon completion of the comments of Commissioners initially recognized by the Chair. Commissioners shall continue to be recognized and provided additional time subsequent to the initial or following rounds of discussion to ensure all questions and comments have been provided prior to the vote on the motion.
- (e) Commissioner Comment Time Period: It is the goal of the Commission for a motion and second to be placed for consideration in a timely manner. Each Commissioner shall be provided up to (15) minutes for individual comments or as determined by the Chair to include response by staff and the public to their respective questions. An additional ten (10) minutes shall be provided for subsequent comments until all Commissioners have responded to their satisfaction. The time period for initial and subsequent comments may be modified at the discretion of the Chair or a majority vote of the Commission. It is not the intent of the Planning Commission to limit comment unless otherwise acted upon under the provisions of Robert's Rules of Order Newly Revised.
- (f) 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.
- (d) 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. Contact with applicants, appellants, citizen groups or other parties outside of the noticed hearing is considered ex parte communication.

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. Any written communication accepted by a Commissioner shall be immediately provided to the Planning Commission Secretary for distribution to the full Commission.

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 Thursday 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.

3.7. Conflict of Interest: Commissioners are subject to the California Political Reform Act and the City of San Diego's Ethics Ordinance and are required to file Statements of Economic Interest.

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. In the absence of a Mayor-appointed Chair and/or Vice-Chair, the Commission shall elect the Chair and/or Vice-Chair by majority vote. The Chair and/or Vice-Chair shall serve until successors are appointed by the Mayor.

4.3. 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 at least one week 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: In order to comply with the Brown Act, 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.