



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 04/14/2021

ITEM NO: 5

DESK ITEM

DATE: April 14, 2021
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Review and Discuss the Land Use 101 Paper Provided by the Town Attorney.

REMARKS:

Staff is also providing the Town Council Code of Conduct and Planning Commission Policies and Procedures in the event that any questions regarding these topics arise during the Commission's discussion.

EXHIBIT:

Previously received with the April 14, 2021 Staff Report:

1. Land Use 101 Paper from the Town Attorney

Received with this Desk Item Report:

2. Town Council Code of Conduct
3. Planning Commission Policies and Procedures

PREPARED BY: Joel Paulson
Community Development Director

Reviewed by: Community Development Director

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TOWN OF
LOS GATOS
CALIFORNIA

COUNCIL POLICY MANUAL

Small Town Service Community Stewardship Future Focus

TITLE: Town Council Code of Conduct

POLICY NUMBER: 2-04

EFFECTIVE DATE: 5/3/2004

PAGES: 8

ENABLING ACTIONS: 2004-059; 2006-111

REVISED DATES: 12/17/2012; 3/3/2015;
12/17/2019

APPROVED:

I. Preamble

The legal responsibilities of the Los Gatos Town Council are set forth by applicable state and federal laws. In addition, the Town Council has adopted regulations, including this Code of Conduct Policy, that hold Council Members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials.

II. Form of Government

The Town of Los Gatos operates under a Council-Manager form of government as prescribed by Town Code, Section 2.30.305. Accordingly, members of the Council are elected at-large, provide legislative direction, set Town policy, and ultimately answer to the public. The Town Manager serves as the Town's chief administrative officer and is responsible for directing the day-to-day operations of the Town and implementing policy direction.

III. Town Council Roles and Responsibilities

The role of the Town Council is to act as a legislative and quasi-judicial body. Through its legislative and policy authority, the Council is responsible for assessing and achieving the community's desire for its present and future and for establishing policy direction to achieve its desired outcomes. All members of the Town Council, including those who serve as Mayor and Vice Mayor, have equal votes.

Members of the Town Council fulfill their role and responsibilities through the relationships they have with each other and the public. Town Council Members should approach their work, each other, and the public in a manner that reflects ethical behavior, honesty and integrity. The commitment of Town Council Members to their work is characterized by open constructive communication, innovation, and creative problem solving.

IV. Mayoral and Vice Mayoral Selection Process

Per Town Municipal Code, Section 2.20.035, the selection of the Mayor and Vice Mayor occurs annually at a special meeting in December by majority vote of the Town Council. The Mayor and Vice Mayor serve at the pleasure of the Town Council and may be replaced by a majority vote of the Council.

V. Mayoral and Vice Mayoral Roles, Responsibilities, Relationships

The following outlines some of the key roles, responsibilities, and relationships as they relate to the positions of Mayor and Vice Mayor:

Mayor

- A. The Mayor is the presiding officer of the Town Council. In this capacity, the Mayor is responsible for developing Council agendas in cooperation with the Town Manager and leading Council meetings.
- B. The Mayor recommends various standing committee appointments to the Council for approval.¹ This will be done at a Council meeting in December of each year. When making committee recommendations, the Mayor should attempt to balance shared responsibilities and opportunities among Council Members. The Mayor may also appoint citizens to committees not established by Town ordinance or resolution as s/he deems appropriate.
- C. The title of Mayor carries with it the responsibility of communicating with the Town Council, Town Manager, and members of the public. In this capacity, the Mayor serves as the Town “spokesperson” representing the Council in official and ceremonial occasions.
- D. As the official Town spokesperson, the Mayor performs special duties consistent with the Mayoral office, including, but not limited to: signing of documents on behalf of the Town, issuing proclamations, serving as the official voting delegate for various municipal advocacy groups, and delivering the State of the Town Address at his or her discretion.² The Town Council will determine any additional authority or duties that the Mayor shall perform.
- E. Special duties consistent with the Mayoral office may be delegated to the Vice Mayor or any other member of the Town Council.
- F. In the event that one or more members of a Town Board, Commission, or Committee acts in a manner contrary to approved Board/Commission policies and procedures, the Mayor may counsel those members about the rules set forth in the Town Commissioner Handbook.³

¹ Council Agenda Format and Rules Policy

² Council Commendation and Proclamation Policy

³ Resolution 1999-167

Vice Mayor

- A. In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor.⁴
- B. When the Vice Mayor performs the duties of the Mayor in his/her absence, the Vice Mayor also carries the responsibility of communicating with the Town Manager, Town Council, and members of the public.

VI. Council Conduct in Public Meetings

To ensure the highest standards of respect and integrity during public meetings, Council Members should:

- A. *Use formal titles.* The Council should refer to one another formally during Council meetings such as Mayor, Vice Mayor or Council Member or Mr., Mrs., or Ms., followed by the individual's last name.
- B. *Practice civility and decorum in discussions and debate.* Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. During public discussions, Council Members should be respectful of others and diverse opinions and allow for the debate of issues.
- C. *Honor the role of the presiding officer in maintaining order and equity.* Respect the Mayor/Chair's efforts to focus discussion on current agenda items.
- D. *Council decisions should be reserved until all applicable information has been presented.*
- E. *Conduct during public hearings.* During public testimony, Council Members should refrain from engaging the speaker in dialogue. For purposes of clarification, Council Members may ask the speaker questions. Council comment and discussion should commence upon the conclusion of all public testimony

VII. Legal Requirements

The Town Council operates under a series of laws that regulate its operations as well as the conduct of its members. The Town Attorney serves as the Town's legal officer and is available to advise the Council on these matters.

A. Training

Biannual training in the following areas shall be provided by staff to Council Members:

- 1. The Ralph M. Brown Act
- 2. Town / CA State Law on Conflict of Interest (AB 1234)
- 3. Government Section 1090
- 4. Incompatible Offices
- 5. The Fair Political Practices Commission Forms
- 6. Bias
- 7. Town / CA State Law on Harassment (SB 1343)

⁴Council Agenda Format and Rules Policy

B. Procurement

Unless authorized by the Town Council, Council Members shall not become involved in administrative processes for acquiring goods and services.

C. Land Use Applications

The merits of an application shall only be evaluated on information included in the public record. Council Members shall disclose ex parte communication and any information obtained outside of the public record that may influence his/her decision on a matter pending before the Town Council. Council disclosure shall occur after the Public Hearing section of the agenda, and before Council deliberations.

D. Code of Conduct Policy

Newly elected Council Members are strongly encouraged to sign a statement affirming they have read and understand the Town of Los Gatos Council Code of Conduct Policy.

E. Non-Profit Organizations

Council Members may not sit on boards of directors of non-profit organizations which receive funding or in-kind contributions from the Town, unless the role serves a legitimate Town purpose, such as the League of California Cities, and the participation is approved by the full Council.

VIII. Council Participation in Boards, Commissions and Committees, and Reporting Requirements

There are several committees that Town Council Members have been appointed to or have an interest in, including but not limited to: Town Council standing and ad hoc committees, Town boards and commissions, regional boards and commissions, and community-generated committees.

Primary Council representatives should update the Council about board, commission, and committee activities. When serving as the primary Council representative on any board, commission, or committee, Council Members should periodically provide updated reports to the Council during the "Council Matters" opportunity on the Council meeting agenda.

Recommended actions by Council Committees should be reported to the Council. When serving on a Council Committee, whether standing or ad hoc, all work undertaken by the Committee must be directed by the Council, and all recommended actions of a Council Committee shall be reported to the Council.

IX. Council Relationship with Town Staff

The Town Council has adopted a Council-Manager form of government. The Town Manager's powers and duties are outlined in the Town Code, Section 2.30.295.

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Council Conduct and Communication with Town Staff

To enhance its working relationship with staff, Council should be mindful of the support and resources needed to accomplish Council goals. When communicating and working with staff, Council should follow these guidelines:

- A. *Council Members should treat staff as professionals.* Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. As with Council colleagues, practice civility and decorum in all interactions with Town staff.
- B. *Council Members should direct questions about policy, budget, or professional opinion to the Town Manager, Town Attorney or Department Directors.* Council Members can direct questions and inquiries to any staff for information that is readily available to the general public or easily retrievable by staff.
- C. *The Town Manager and staff are responsible for implementing Town policy and/or Council action.* The processing of Council policy and decisions takes place with the Town Manager and staff. Council should not direct policy/program administrative functions and implementation; rather it should provide policy guidance to the Town Manager.
- D. *Council Members should attempt to communicate questions, corrections, and/or clarifications about reports requiring official action to staff prior to Council meetings.* Early feedback will enable staff to address Council questions and incorporate minor corrections or changes to a Council report, resulting in a more efficient Council meeting discussion; however, this does not preclude Council Members from asking questions at Council Meetings.
- E. *Council Members should not direct the Town Manager to initiate any action, change a course of action, or prepare any report without the approval of Council.* The Town Manager's responsibility is to advise on resources available and required for a particular course of action as it relates to the direction of the majority of the Council.
- F. *Council Members should not attend department staff meetings unless requested by the Town Manager.*
- G. *All Council Members should have the same information with which to make decisions.* Information requested by one Council Member will be shared with all members of the Council.
- H. *Concerns related to the behavior or work of a Town employee should be directed to the Town Manager.* Council Members should not reprimand employees.
- I. *Per California Government Code, Sections 3201-3209, Council Members should not solicit financial contributions from Town staff or use promises or threats regarding future employment.* Although Town staff may, as private citizens with constitutional rights, support political candidates, such activities cannot take place during work hours, at the workplace, or in uniform.

X. Council Communication with the Public and other Council Members

The Public has a reasonable expectation that it may engage its Council Members on matters of community concern. In response, Council Members may express a preliminary opinion on issues or projects raised. Any such preliminary statement shall not constitute a prejudgment or create a presumption of bias on any issue or a project. In addition, Council Members may from

time to time express opinions regarding broad policy matters which may be in conflict with currently adopted Council policies. Such statements are permissible if clearly characterized as personal opinion or policy change objectives.

XI. Enforcement

A. Purpose

The Council Code of Conduct Policy establishes guiding principles for appropriate conduct and behavior and sets forth the expectations of Council Members. The purpose of the policy language is to establish a process and procedure that:

1. Allows the public, Town Council, and Town employees to report Code of Conduct policy violations or other misconduct.
2. Provides guidelines to evaluate Code of Conduct policy violations or other misconduct and implement appropriate disciplinary action when necessary.

B. Procedures

1. Reporting of Complaints

The following section outlines the process for reporting Council Member Code of Conduct Policy violations or other misconduct:

- a. Complaints made by members of the public, the Town Manager, and Town Attorney should be reported to the Mayor. If a complaint involves the Mayor, it should be reported to the Vice Mayor.
- b. Complaints made by Council Members should be reported to the Town Manager or Town Attorney to adhere to Brown Act requirements.
- c. Complaints made by Town employees should be reported to the Town Manager, who will direct them to the Mayor or Vice Mayor.

2. Evaluation of Complaints Alleging Violations

Upon report of a written complaint, the Town Manager and Town Attorney will join the Mayor or Vice Mayor as an evaluation committee to determine the validity of the complaint and, if appropriate, an initial course of action as discussed below. If the Town Manager or Town Attorney is the complainant, the longest serving uninvolved Council Member will replace the Town Manager or Town Attorney on the evaluation committee.

Within seventy-two (72) hours of receipt of the complaint by the Mayor or Vice Mayor, the Council Member in question shall be notified of the reported complaint by the Mayor or his/her designee. The notification shall include a copy of the written complaint and supporting documentation, if any, the identity of the complainant and nature of the complaint.

3. Unsubstantiated or Minor Violations

If the majority of the Committee agrees that the reported violation is without substance, no further action will be taken. If the reported violation is deemed valid but minor in nature, the Mayor or Vice Mayor shall counsel and, if appropriate, admonish the Council Member privately to resolve the matter. Admonishment is considered to be a reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.

4. Allegations of Major Violations

If the reported violation is considered to be serious in nature, the matter shall be referred to outside legal counsel selected by the Committee for the purpose of conducting an initial interview with the subject Council Member. The outside counsel shall report his/her initial findings back to the Committee.

If the Committee then determines that an investigation is warranted, the Committee shall direct the outside legal counsel to conduct an investigation. The investigation process would include, but is not limited to, the ascertainment of facts relevant to the complaint through interviews and the examination of any documented materials.

5. Report of Findings

At the conclusion of the investigation, outside legal counsel shall report back to the Committee in writing. The report shall either (1) recommend that the Council Member be exonerated based on a finding that the investigation did not reveal evidence of a serious violation of the Code of Conduct, or (2) recommend disciplinary proceedings based on findings that one or more provisions of the Code of Conduct or other Town policies have been violated. In the latter event, the report shall specify the provisions violated along with the facts and evidence supporting each finding.

The Committee shall review the report and its recommendations. If the consensus of the Committee is to accept the report and recommendations, the Committee shall implement the recommendations. Where the recommendation is exoneration, no further action shall be taken. Where the recommendation is to initiate disciplinary proceedings, the matter shall be referred to the Council. Where there is no consensus of the Committee regarding the recommendations, the matter shall be referred to the Council.

The subject Council Member shall be notified in writing of the Committee's decision within 72 hours. Where the decision is to refer the matter to the Council, a copy of the full report, including documents relied on by the investigator shall be provided with the notification, and a copy of both shall be provided to the whole Council.

6. Proceedings

Investigative findings and recommended proceedings and disciplinary action that are brought forward to Council as a result of a significant policy violation shall be considered at a public hearing. The public hearing should be set far enough in advance to allow the Council Member in question reasonable sufficient time to prepare a response.

Investigative findings shall be presented to the Town Council at a public hearing. The rules of evidence do not apply to the public hearing. It shall not be conducted as an adversarial proceeding.

C. **Disciplinary Action**

1. Considerations in Determining Disciplinary Action

Disciplinary action may be imposed by Council upon Council Members who have violated the Council Code of Conduct Policy. Disciplinary action or sanctions are considered when a serious violation of Town policy has occurred by a Council Member. In determining the type of sanction imposed, the following factors may be considered:

- a. Nature of the violation
- b. Prior violations by the same individual
- c. Other factors which bear upon the seriousness of the violation

2. Types of Sanctions

At the discretion of the Council, sanctions may be imposed for violating the Code of Conduct or engaging in other misconduct. These actions may be applied individually or in combination. They include, but are not limited to:

- a. *Public Admonishment* – A reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.
- b. *Revocation of Special Privileges* – A revocation of a Council Member's Council Committee assignments, including standing and ad hoc committees, regional boards and commissions, and community-generated board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.
- c. *Censure* – A formal statement or resolution by the Council officially reprimanding a Council Member.

APPROVED AS TO FORM:



Robert Schultz, Town Attorney



Title: Planning Commission Policies and Procedures

Policy Number: 2-05

Effective Date: 1983

Pages: 11

Enabling Actions:

Revised Date: 5/8/1985; 11/18/1987;
9/22/93; 11/16/1998; 4/16/2001;
12/6/2010; 4/21/2015; 9/20/2016;
8/20/2019

Approved:

PURPOSE

This Policy is to inform Planning Commission Members of their roles, responsibilities, and functions, as well as operating procedures for meetings.

SCOPE

Since 1983, the Town Council has adopted Planning Commission Policies and Procedures. The Procedures address topics including the agenda format, Commissioner conduct at Planning Commission meetings, absences, evidence outside of formal hearings, findings, voting, and other issues. Periodically, the Town Council adopts revisions to the Procedures.

POLICY AND PROCEDURES

1. ORGANIZATION, OFFICERS, DUTIES

1.1 Organization.

The Planning Commission consists of seven voting members and shall be organized as prescribed by Town Code Section 29.20.750 and the Town Council. All Planning Commissioners shall be appointed by the Town Council. Commissioners serve at the pleasure of the Town Council and may be removed prior to the end of his or her term by a four-fifths vote of the Town Council.

1.2 Officers.

A Chairperson (hereinafter Chair) and Vice-Chairperson (hereinafter Vice Chair) shall be elected annually from among the Commission's membership at the first meeting in January, to serve at the pleasure of the Commission for a term of office of one year.

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The Chair shall:

- a) Preside at all meetings of the Commission.
- b) Sign documents of the Commission.
- c) Determine meeting schedule and agenda items consistence with state law noticing requirements.

During the absence, disability or disqualification of the Chair, the Vice-Chair shall perform all the duties and be subject to all the responsibilities of the Chair.

The Vice-Chair shall succeed the Chair if he or she vacates the office before his or her term is completed and shall serve the unexpired term of the vacated office. (A new Vice-Chair shall be elected at the next regular meeting.)

In the absence of the Chair and Vice-Chair, any other Commissioner shall call the Commission to order whereupon a Chair pro tem shall be elected from the Commissioners present to preside.

1.3 Duties.

The functions, powers and duties of the Planning Commission shall consist of all those functions, powers and duties of a Planning Commission as provided in Chapters 3 and 4 of Title 7, commencing with Section 65100 of the California Government Code (Planning and Zoning Law) and as the same may be hereafter amended. The Planning Commission shall perform such other duties and functions as may be designated in Town Code and by the Town Council.

1.4 Support.

The Secretary of the Planning Commission is the Community Development Director or designee. The Chair shall set the Agenda in consultation with the Secretary.

2. LEGAL AND ETHICAL STANDARDS

Planning Commissioners must serve as a model of leadership and civility to the community and treat all members of the public, each other, and the issues before them with respect to ensure open and effective government.

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To ensure the highest standards of respect and integrity during public meetings, Planning Commissioners shall:

1. Use formal titles. The Commissioners shall refer to one another formally during Commission meetings such as Chair, Vice Chair, Commissioner, or Mr., Mrs., or Ms., followed by the individual's last name.
2. Practice civility and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. This does not allow, however, Commissioners to make abusive, slanderous, and personal comments, and/or physical actions that could be construed as threatening. During public discussions, Commissioners shall be respectful of others and diverse opinions, practice objectivity, and allow for the debate of issues.
3. Honor the role of the Chair in maintaining order and equity, and respect the Chair's efforts to focus discussion on current agenda items. Objections to the Chair's actions should be voiced politely and with reason.
4. Demonstrate effective problem-solving approaches. Commissioners are role models for residents, business people, and other stakeholders involved in public debate.
5. Base decisions on the -written evidence, arguments or testimony and decisions should be made objectively and based upon the merits and substance of the matter at hand, not through established coalitions or well-defined voting blocks. Judgment of decisions should be reserved until all applicable information has been presented.
6. Be prepared and knowledgeable. To effectively lead and inform the public, Commissioners shall be prepared and informed about issues on the agenda.
7. Be respectful of other people's time. Commissioners should stay focused, listen attentively, and act efficiently during public meetings. During public testimony, Commissioners should refrain from engaging the speaker in dialogue; however, for purposes of clarification, Commissioners may ask the speaker questions. Commission comment and discussion should commence upon the conclusion of all public testimony.

3. MEETINGS, STUDY SESSIONS, AGENDAS, AND STAFF REPORTS

3.1 Quorum and Attendance at Meetings.

A quorum to conduct business shall consist of a majority of the total number of filled seats consistent with Town Council Resolution 2014-041. For example, if all seven Commissioners are seated, then a quorum consists of a minimum total of four members of the Commission. A quorum is not required for workshops.

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Requests by Commissioners to attend a Commission meeting via telephonic appearance are actively discouraged. Telephonic attendance shall only be permitted in the event of extraordinary events such as a medical, family, or similar emergency requiring a Commissioner's absence or in the event the Commissioner is out of the area on official Town business. In addition, at least a quorum of the Commission must participate from a location within the Town.

3.2 Public Meetings.

All meetings shall be held in full compliance with the provisions of state law, ordinances of the Town, and these Policies and Procedures.

3.3 Regular Meetings.

Regular meetings of the Commission shall be held on the second and fourth Wednesdays of each month in Town Council Chambers at 110 E. Main Street, Los Gatos, unless otherwise determined by the Commission. All regular meetings of the Commission will be called to order at 7:00 p.m., unless advertised otherwise, canceled, or rescheduled.

The Commission with the consent of the majority of the Commission, adjourn its meetings on or before 11:30 p.m. with any unfinished business being continued to the next regular, adjourned, or special meeting, unless the Commission votes to extend the meeting. At approximately 11:15 p.m., the Chairperson will call for review of any remaining agenda items to consider whether they will likely be completed by 11:30 p.m., or whether continuances should be considered. The Secretary of the Planning Commission, or designee, will post notice of any continued hearing or other unfinished business, as required by law.

3.4 Special Meetings.

A special meeting may be called at any time by the Chairperson of the Commission, or by a majority of its membership on its own motion, or at the direction of the Town Council. Notice shall be sent in compliance with the Ralph M. Brown Act, Government Code section 54950, *et seq.* ("Brown Act") and the Los Gatos Town Code.

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3.5 Adjourned Meetings.

The Commission may adjourn any regular or special meeting to a time and place specified pursuant to the procedures set forth in the Brown Act.

3.6 Workshops/Study Sessions.

The Commission may hold a workshop as part of a regular or special meeting. When a matter is set for a workshop, public testimony on each item will generally be limited to three (3) minutes per person, at the discretion of the Chair. A workshop shall be for discussion only and the Commission will take no action on the workshop item.

3.7 Agendas.

At least seventy-two (72) hours before a regular meeting, copies of the Commission's agenda shall be posted in a location that is available for viewing by the public and made available on the Town website and at the Community Development Department. In accordance with the Brown Act, the Commission may not take action on any item that did not appear on the posted agenda, unless an exception is made as permitted under Government Code section 54954.2. The Chair may rearrange the order of presentation of items appearing on the agenda as he or she may deem necessary or desirable for the conduct of the meeting. No person shall be entitled to rely upon the order in which public hearing items appear on the posted agenda, and any public hearing on any agenda may commence immediately upon the time the meeting is called to order.

3.8 Staff Reports.

Staff Reports shall be made public whenever they are distributed to the Commission, except in the case of attorney/client privilege memoranda. Staff reports will usually be prepared with recommendations and shall include the basis for these recommendations and included in the hearing record on any application.

If, in reviewing a staff report, a Commissioner sees omissions, has questions, or is looking for specific information, it is advisable that the Commissioner contact the Community Development Director or designee prior to the hearing.

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3.9 Order of Meetings.

The Order of Business shall be as follows subject to the Chairperson's final approval:

1. Roll Call
2. Pledge of Allegiance
3. Written Communications
4. Requested Continuances
5. Sub-Committee Reports
6. Verbal Communications
7. Consent Calendar
8. Continued Public Hearings
9. New Public Hearings
10. Continued Other Business
11. New Other Business
12. Adjournment

3.10 Chair's Rules of Order.

After issuing a warning, the Chair may order from the meeting location any person(s) who commit the following acts with respect to a regular or special meeting of the Commission:

1. Disorderly, contemptuous or insolent behavior toward the Commission, or any member thereof, which interrupts the due and orderly course of said meeting.
2. A breach of the peace, boisterous conduct or violent disturbance which interrupts the due and orderly course of said meeting.

After a warning by the Chair, if more than one individual at a given meeting continues to engage in disruptive or unruly behavior to the extent that it is preventing Commissioners from adequately participating in the meeting, the Chair may order that the meeting location be cleared of all members of the public (with the exception of members of the press who are not participating in the disruption), and/or (c) adjournment of the meeting to another time or place so that the meeting may continue uninterrupted.

Any Commissioner may move to require the Chair at the meeting to enforce the rules, and the affirmative vote of a majority of the Commissioners present shall require him or her to so act.

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4. PRESENTATION OF AGENDA ITEMS

4.1 Minutes and Recording.

Commission meetings are recorded and the recording is permanently preserved by the Town. The recording of the meeting is used by the Secretary of the Commission to prepare minutes of the hearing which must be approved by the Commission. The minutes of the Commission's proceedings shall show the vote of each Commissioner, including if they were absent or failed to vote on a matter considered.

4.2 Order of Presentation.

The order of the presentation shall be as follows:

1. The Chair shall announce the subject of the agenda item.
2. Presentation of staff report, including any environmental analysis or recommendation.
3. Questions of staff by Commissioners.
4. Public hearing opened.
5. Presentation of the applicant(s) or appellant(s).
6. Public comment.
7. Rebuttal comments by the applicant(s) or appellant(s).
8. Public hearing closed.
9. Commission discussion and action.

4.3 Public Participation.

The Commission welcomes participation and comment on any matter within its subject matter jurisdiction. It is the Commission's intent to create and maintain an environment where people feel comfortable participating in the public process and an atmosphere of respect for all who participate in the Town's public meetings. To maintain civility and respect and to allow the Commission to complete its work in a timely manner, the Commission requests that all attendees and participants show respect for every speaker regardless of his or her viewpoint, and to refrain from conduct that may inhibit others from addressing the Commission. Disrespectful conduct, such as hissing, booing, whistling, cheering, chanting, and judgmental hand gestures, are all inappropriate. The Commission also discourages profane remarks or personal attacks or insults to any member of the Commission, staff, other attendees or speakers, or the general public. Accordingly, the Commission requests the cooperation of all in maintaining a meeting

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environment where persons can feel comfortable participating in the public process and expressing their views and opinions, and an atmosphere of respect for all.

4.4 Rules of Evidence.

Hearings and meetings before the Commission 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 reasonable persons are accustomed to rely on in the conduct of serious affairs.

4.5 Written Evidence.

Written evidence that members of the public wish to submit to the Commission in advance of a Commission agenda item should be submitted by 11:00 a.m. on the Wednesday one week prior to the Commission meeting in order for such evidence to be provided to the Commission with its agenda packet in advance of the meeting. Any written evidence submitted after this day and time but prior to 11:00 a.m. on the day of the hearing will be distributed to the Commission in an Addendum or Desk Item.

Written or pictorial evidence distributed to the Commission at the meeting may not be effective, as the Commission may not have enough time to absorb its content. Although late correspondence is highly discouraged for this reason, any participant may submit written and pictorial evidence to the Commission during the public hearing on an item.

4.6 Oral Evidence, Time Limits, and Number of Speakers.

A speaker's card to speak on an item should be submitted to the Secretary of the Commission or designee.

The Chair's instructions to the audience will generally follow these guidelines:

1. Any person desiring to speak must first be recognized by the Chair.
2. All participants must speak from the podium.
3. All speakers are requested to first state their full name and full address, and to speak into the microphone as all meetings are recorded. To ensure correct spelling of names and addresses, all speakers are encouraged to submit a speaker's card to the Secretary of the Commission or designee.

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4. All comments shall be directed to the Commission as a body, and not to any particular Commissioner, staff person or audience. No person, other than Commissioners, staff, and the person having the floor shall be permitted to enter into the discussion. Commissioners shall only ask questions of the speakers through the Chair. Each applicant and appellant shall be limited to a five (5) minute presentation at the start of the public hearing and a three (3) minute rebuttal after all other speakers have been heard. All members of the applicant's or appellant's team shall be heard as a group within these time limits. Questions by the members of the Commission do not count against the time. Members of the public who wish to speak on any items will be limited to up to 3 minutes each. No person shall be allowed to speak a second time per item. In order to assure the opportunity for all those desiring to speak before the Commission, there is no yielding of time to another speaker. The Chair, at his or her discretion, may allocate more or less time for speakers due to the complexity of the issues and/or due to a large number of speakers on a particular item. Except for the applicant or appellant, all speakers shall be limited to the same amount of time to speak.

4.7 Evidence Received Outside a Hearing.

Applications before the Planning Commission involve quasi-judicial matters, legislative matters and matters that have attributes of each. On quasi-judicial matters California law requires decisions to be based on findings, and findings to be based on evidence presented at the hearing. Accordingly, the actual decision of the Commission on a quasi-judicial matter must be supported by evidence presented at the hearing, i.e. the staff report, testimony given during the hearing and comments from other Commissioners. A Commissioner may not state or predetermine his or her decisions on an application prior to the hearing.

In order to avoid the appearance of bias or impropriety, individual Commissioners are prohibited from discussing, outside of the public hearing process, the substance of any project with project proponents, opponents and member of the public. This prohibition shall apply to all projects, whether conceptual or proposed, that can be considered by the Commission in reviewing an application, on appeal or on remand. Study sessions may be used as a means of facilitating informal communication. Individual Commissioners who have engaged in prohibited discussions shall recuse themselves from consideration of the project.

Incidental contacts that do not address the substance of any project are not prohibited. Incidental contacts are those that are not reasonably understood to influence a Commissioner's decision and include speaking with an interested party to obtain approval to enter a property and to

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obtain information intended to orient the Commissioner about the physical aspects of the property or a project.

5. MOTIONS

Action upon an order, resolution, ordinance, or any other action of the Commission may be proposed by any Commissioner by a motion. Before a motion can be considered or debated it must be seconded, at which time it shall be on the floor and must be considered. If not seconded, the motion dies for lack of a second and shall be so declared by the Chair. Substitute motions and other parliamentary procedures shall follow Robert's Rules of Order.

Pursuant to Planning Commission Resolution No. 78-4, adopted May 10, 1978, the Planning Commission will not accept requests for continuances from applicants after 12:00 noon of the Friday preceding any Commission meeting, provided, however, that the Commission retains the right to make exceptions when it finds that a genuine emergency exists which was not known to the applicant.

A motion to adopt or approve staff recommendations or simply to approve the action under consideration shall, unless otherwise particularly specified be deemed to include adoption of all proposed findings and execution of all actions recommended in both the written staff report on file on the matter, any verbal staff report, and other evidence presented during the hearing.

6. VOTING AND ABSENTEES

Voting of not less than three (3) votes shall be required to carry a motion, unless a larger number of votes is required by applicable ordinance or other law.

If a Commissioner is not eligible to participate in the consideration of an item due to a conflict of interest, the Commissioner shall be disqualified and shall recuse him or herself from the voting, in which case the Commissioner cannot be included in the quorum. Prior to consideration of the matter, the conflicted Commissioner shall recuse on the record, stating the basis for the recusal, and shall then leave the room, unless legally entitled to remain under applicable law.

If a majority of the Commission shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, the Commission shall select by lot, or other means of random

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selection, that number of disqualified Commissioners which, when added to the Commissioners eligible to vote, shall constitute a quorum.

A Commissioner who expects to be absent should notify the Chair and the Community Development Department prior to the meeting.

Pursuant to Resolution 2011-012, any Commissioner who is absent from eight (8) regular meetings held in a twelve (12) consecutive month period, shall, as a result, surrender his or her office on the Planning Commission and the office shall be considered vacant.

A Commissioner who is absent from any portion of a hearing conducted by the Commission may vote on the matter at the time it is acted upon, provided that he or she viewed the video recording of the entire portion of the hearing from which he or she was absent, and he or she has examined all of the staff reports and minutes presented during the portion of the hearing from which he or she was absent; and he or she 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. LEGAL REQUIREMENTS

The Planning Commission operates under a series of laws that regulate its operations as well as the conduct of its members. The Town Attorney serves as the Town's legal officer and is available to advise the Commission on these matters.

The Ralph M. Brown Act requires that meetings of the Planning Commission be open and public. "Meetings" occur whenever four (4) or more members of the Commission hear, discuss, or deliberate on any matter that is relevant to the Town. This includes discussions that occur face to face, serially, through third parties, or through written, telephonic, or e-mail communications.

The Political Reform Act controls conflicts of interests through disclosure of financial interests and prohibition in participating in decision making. Commissioners are prohibited from making, participating in or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. Financial interests can arise out of property ownership, business investment, leadership in a business entity, and receipt of money or gifts.

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8. CONSTRUCTION AND EFFECT

These Policies and Procedures shall be construed and applied so as to ensure a full and fair hearing of relevant evidence which is offered on a land use matter and to facilitate an orderly analysis of evidence and issues by the Commission. Failure to comply with the strict provisions of these Policies and Procedures shall not necessarily invalidate any action taken by the Commission.

9. RULES OF ORDER.

Except as otherwise provided in these Policies and Procedures, Roberts Rules of Order shall be used as a guide for the conduct of the meetings of the Planning Commission. No omission to conform to said rules of order shall in any instance be deemed to invalidate any action taken by the Commission.

10. AMENDMENT.

These Policies and Procedures may only be amended by the Town Council.

APPROVED AS TO FORM:



Robert Schultz, Town Attorney