

P.C. RESOLUTION NO. 2011- 25

**A RESOLUTION OF THE PLANNING
COMMISSION OF THE CITY OF RANCHO
PALOS VERDES ADOPTING RULES AND
PROCEDURES FOR THE CONDUCT OF
HEARINGS ON LAND USE MATTERS AND
OTHER BUSINESS**

WHEREAS, California Government Code Section 65804 requires the City to develop and publish procedural rules for the conduct of zoning and planning hearings, so that all interested parties will have advance knowledge of the procedures to be followed; and,

WHEREAS, the Planning Commission serves as an advisory agency to the City Council with respect to the processing of parcel and tentative maps under the Subdivision Map Act; and,

WHEREAS, pursuant to the requirements of the California Government Code and the Rancho Palos Verdes Municipal Code, the Planning Commission desires to specify procedural rules to govern the conduct of hearings on the land use matters, including, but not limited to, zone changes and zoning text amendments, variances, conditional use and other permit applications, subdivision requests and appeals of administrative decisions; and,

WHEREAS, the Planning Commission finds a need to clarify its rules and procedures that deal with a variety of topics related to the conduct of its meetings;

NOW, THEREFORE, BE IT RESOLVED that the following procedural rules shall, insofar as consistent with applicable State laws and City ordinances, govern the conduct of all business, including, but not limited to, land use hearings, before the Planning Commission of the City of Rancho Palos Verdes:

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

1.1 Appointment:

Pursuant to Municipal Code Section 2.20.020, the Planning Commission consists of seven regular members appointed by the City Council. The Chairperson is appointed by the Council, and the Vice Chairperson shall be elected by a majority of the members of the Planning Commission.

1.2 Quorum:

A quorum to conduct business shall consist of a minimum total of four eligible members of the Commission.

Commission members who live or own property within 500 feet of a property that is under review by the Planning Commission are presumed to be ineligible to participate in deliberations or vote on that item, as specified by the regulations promulgated by the Fair Political Practices Commission.

Commission members who own property that is more than 500 feet but in close proximity to a property that is under review by the Planning Commission shall determine, after consultation with the City Attorney or the Fair Political Practices Commission, if the project would have a material financial affect on the value of the Commissioner's property and, if so, shall notify the Staff that the Commissioner is disqualified from deliberations on that item and shall so state on the record of the matter that is being considered and then shall leave the meeting room, in accordance with the provisions of the Political Reform Act. Commissioners also shall discuss other potential conflicts of interest, as defined by the Political Reform Act, with the City Attorney or the Fair Political Practices Commission.

1.3 Regular Meetings:

Regular meetings of the Planning Commission shall be held on the second and fourth Tuesdays of each month. If the regular meeting date falls on a City holiday, then the meeting will generally be rescheduled to the next business day.

All regular meetings of the Planning Commission will be called to order at 7:00 p.m., unless advertised otherwise, canceled, or rescheduled.

The Commission will, except under exceptional circumstances, and with the consent of the majority of the Commission, adjourn its meetings on or before 12:00 a.m. and not consider new business items after 11:00 p.m., with any unfinished business being continued to the next regular, adjourned, or special meeting. The Community Development Director or his or her deputy, will post notice of any continued hearing or other unfinished business, as required by law.

1.4 Special Meetings:

A special meeting may be called at any time by the Chairperson of the Planning Commission, or by a majority of its membership on its own motion, or at the direction of the City Council. Written notice shall be sent by mail at least twenty-four (24) hours before the time of a special meeting to each member and to each local newspaper of general circulation, to each radio or television station, or cable television operator, which has previously submitted a written request for notice and any other person entitled to notice under the Ralph M. Brown Act. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at the meeting.

Written notice may be dispensed to any member who at, or before, the time of the meeting files an oral or written waiver of notice with the Community Development Director . The waiver may also be given by telegram or electronic means, such as by fax or e-mail, so that the waiver can be printed and kept in the City's files. Written notice will also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

1.5 Adjourned Meetings:

The Planning Commission may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment pursuant to the procedures set forth in the Ralph M. Brown Act, Government Code Section 54950, et seq.

1.6 Study Sessions:

The Planning Commission may hold a study session (workshop) as part of a regular, adjourned, or special meeting. When a matter is set for a study session, public testimony on each item will generally be limited to five (5) minutes per person, at the discretion of the Chairperson. Public notice for study sessions on specific matters for which public hearings are anticipated in the future will be given in the same manner as that required for public hearings, and a record of the study session shall be entered into the minutes of any such future public hearings.

1.7 Open and Closed Sessions:

Except as otherwise provided in the Ralph M. Brown Act, all meetings of the Planning Commission shall be open and public, and all persons shall be permitted to attend. The Planning Commission may, upon the advice of and with the presence of the City Attorney or his or her assistant, hold a closed session during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter that it is authorized by State law to hear or consider in closed session.

1.8 Agendas:

At least seventy-two (72) hours before a regular meeting, copies of the Planning Commission's agenda shall be posted in a location that is available for viewing by the public and made available at the Community Development Department . In accordance with the Ralph M. 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 Chairperson 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.

1.9 Staff Reports:

When staff reports exist, they shall be made public whenever they are distributed to the Planning Commission, except in the case of attorney/client privilege memoranda. Staff reports shall be prepared with recommendations and shall include the basis for these recommendations, and shall be included in the hearing record on any application for a change of zone for a parcel of ten acres or more. Reports or recommendations on tentative subdivision maps shall be in writing and shall be served on the subdivider at least three (3) days before any hearing or action on the map by the Planning Commission.

If, in reviewing a Staff Report, a Commission member sees omissions, has questions, or is looking for specific information, it is advisable that the Commissioner contact the Director or Staff Planner directly prior to the hearing.

1.10 Direction to Staff

Any explicit direction to Staff shall come through the Chairperson or as a result of a consensus of the Planning Commission by formal motion.

2. **PRESENTATION OF AGENDA ITEMS**

2.1 Minutes and Recording:

Planning Commission meetings are videotaped, and in accordance with the policies of the City, the video-tape is permanently preserved by the City. The video tape of the meeting is used by City Staff to prepare minutes of the hearing which must be approved by the Commission. The approved minutes of a meeting shall serve as the official record of that meeting. A copy of such recording may be purchased at its reproduction cost. Members of the public also are able to view archived video-tapes of past Planning Commission meetings on the City's website. Members of the public may also record audio or videotapes of meetings without permission from the Chairperson provided that the recording process does not disrupt the meeting. In no way shall any electronic recording of a meeting be deemed the "official minutes" of the meeting.

2.2 Order of Presentation At Public Hearings:

Unless the Chairperson in his or her discretion should direct otherwise, the order of the presentation should be as follows:

- (a) Presentation of staff report, including any environmental analysis or recommendation.

- (b) Questions of staff by members of Planning Commission.
- (c) Public hearing opened.
- (d) Presentation of the applicant(s) or appellant(s).
- (e) Presentation of persons in favor of the requested action in the order that the speaker slips are submitted to Staff.
- (f) Presentation of persons in opposition to the requested action in the order that the speaker slips are submitted to Staff.
- (g) Rebuttal comments by the applicant(s) or appellant(s), if requested.
- (h) Closing comments by staff.
- (i) Public hearing closed.

Public hearings may be reopened by a motion of a Commissioner and approval by the Commission majority at any time during the meeting to permit additional testimony and evidence, or to permit reconsideration of an action or for any other reason. Any questions of the applicant or appellant, or of the interested public, shall be made during the public hearing.

2.3 Rules of Evidence:

Hearings and meetings before the Planning 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 responsible persons are accustomed to rely in the conduct of serious affairs. The Chairperson 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. Any Commissioner may raise a point of order with the Chairperson to exclude irrelevant or out-of-order testimony from the public. Evidentiary objections shall be deemed waived unless made in a timely fashion before the Planning Commission.

2.4 Burden of Proof:

The burden of proof of all legal prerequisites to the granting of the relief or action sought shall be upon the party requesting such relief or action.

2.5 Written and Pictorial Evidence

Although late correspondence is highly discouraged, any person may submit

written and pictorial evidence to the Planning Commission through the Community Development Director up to and during the public hearing on an item. Written or pictorial correspondence sent by email to the Planning Commission's email address (pc@rpv.com) as set forth below is encouraged.

Written or pictorial evidence that members of the public wish to submit to the Planning Commission in advance of a Commission agenda item must be submitted by 12:00 p.m. on the Tuesday one week prior to the Planning Commission meeting in order for said evidence to be provided to the Commission with its agenda packet in advance of the meeting. Written or pictorial evidence distributed to the Planning Commission at the meeting may not be effective, as the Commission may not have enough time to absorb its content.

2.6 Oral Evidence, Time Limits, and Number of Speakers:

A request to speak on an item should be submitted to the Planning Commission Secretary prior to the completion of the remarks of the first speaker on the item. If the Chairperson makes an announcement when an item is introduced for discussion, request forms will not be accepted after that time and no additional speakers will be allowed to speak on the item being discussed.

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

1. Any person desiring to speak must first be recognized by the Chairperson.
2. All participants must speak from the podium.
3. All speakers are requested, but are not required, to first state their full names and the names of any persons in whose behalf they are appearing (if any).
4. All comments must be made clearly and audibly.
5. All comments shall be directed to the Planning Commission as a body, and not to any particular member or Staff.
6. No person, other than members of the Planning Commission, Staff and the person having the floor shall be permitted to enter into the discussion.
7. No questions shall be asked of Commission members, except through the Chairperson.
8. Repetition of comments should be avoided.
9. Typically, each applicant and appellant will be limited to a five (5) minute

presentation and a three (3) minute rebuttal (if requested). All other persons in favor or opposed to the requested action will be typically limited to a three (3) minute presentation each.

10. No person shall be allowed to speak a second time except in unusual circumstances and at the discretion of the Chairperson.
11. Due to unusual complexity of a particular item, the Chairperson, at his or her discretion, may allocate more than five (5) minutes to an applicant or appellant and more than three (3) minutes to all other speakers. Due to a large number of speakers on a particular item, the Chairperson, at his or her discretion, may allocate a specific amount of time to each side, and allow those wishing to speak on each side to designate a spokesperson or to divide the allotted time among themselves.
12. Persons who submit forms requesting to speak are prohibited from assigning or transferring their speaker time to another speaker.

2.7 Questioning of Speakers:

Any person, other than a Commission member, desiring to direct a question to a speaker or staff member shall submit the question to the Chairperson, who shall determine whether the question is relevant to the subject of the hearing and whether or not it should be answered by the speaker or staff member.

2.8 Evidence Received Outside a Hearing:

The Commission does not encourage the receipt of information or evidence on a particular pending matter outside of hearings. If any Commission member receives information during a site visit or through any other means, which he or she feels is pertinent to a pending matter, he or she shall disclose the information or evidence so received during the hearing on the matter. The applicant or appellant shall have the opportunity to supplement or rebut the information or evidence so disclosed, and failure to do so shall be deemed a waiver of any objection regarding the information or evidence.

2.9 City Attorney:

The Chairperson (or any member of the Commission via the Chairperson) may request the Community Development Director to request the City Attorney (or his or her assistant) to explain, either in writing or orally to the Commission or Staff, as appropriate, a legal opinion on a particular matter. The City Attorney or his or her assistant may further advise the Chairperson on matters of evidence and procedure which may arise, including, but not limited to, the desirability of closed sessions to discuss pending or potential litigation.

Commission members are encouraged to contact the City Attorney directly with regard to any concerns about potential conflicts of interest.

Substitute motion vs
Amendment
Determined by chair

3. MOTIONS

3.1 Motions - Second:

Action upon an order, resolution, ordinance, or any other action of the Commission may be proposed by any member by a motion. The Chairperson may make a motion only after all other members of the Planning Commission present have had an opportunity to make a motion on the question. 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 is lost for lack of a second and shall be so declared by the Chairperson.

3.2 Amendment of a Motion:

A motion on the floor may be amended at any time before adoption or rejection. When an amendment is offered, the maker of the motion and the Commissioner who seconded the motion will be given an opportunity by the Chairperson to accept the amendment. If the maker of the motion and the Commissioner who seconded the motion agree to the amendment, the original motion as amended will then be considered. If either the maker of the motion or the Commissioner who seconded the motion does not accept the amendment, the Planning Commission will debate and take action on the amendment before acting on the original motion. If the amendment is not adopted, the original motion will then be considered. If the amendment is adopted, the original motion as amended will then be considered.

3.3 Withdrawal of Motion or Second:

A motion may be withdrawn by the maker at any time before adoption or rejection, with consent of the second. A second to a motion may be withdrawn by the seconding member at any time before adoption or rejection of the motion. The motion will then be lost for lack of a second and so declared by the Chairperson unless seconded by another person.

3.4 Tabling a Motion:

At any time after a motion has been seconded, any member may move to table a motion. If the tabling motion is adopted, the original motion will remain on the floor but may not again be considered at the meeting at which it was made. The original motion will be considered and voted upon at a regular meeting of the Planning Commission, specified in the motion, unless again tabled at that time. If not considered at such meeting, it will be deemed lost. If the tabling motion is not adopted, consideration of the original motion will continue.

3.5 Discussion, Closure, and Question:

After a motion has been seconded, any member may discuss or comment on the subject of the motion. The Chairperson will recognize members of the Planning Commission with the desire to speak, beginning with the motion's maker, and will protect each speaker from disturbance or interference. When no member wishes to discuss or comment further, the Chairperson will call for a vote on the motion. Any member of the Planning Commission may at any time move to close the debate.

3.6 Motions for Reconsideration:

Motions for reconsideration of a matter may be made by any member who voted with the prevailing majority on the matter to be reconsidered. Any member of the Planning Commission may second a motion to reconsider. Motions to reconsider shall be made at the same meeting as the original motion or an adjourned meeting on the succeeding day. If the matter to be reconsidered was considered at a public hearing, the public hearing will be reopened before additional evidence is received.

4. DECISION-MAKING

4.1 Voting:

Approval of any motion on a general matter brought before the Planning Commission shall require the affirmative vote of a majority of the members present.

4.1.1 Tie Votes:

Any tie vote shall constitute a denial of the motion and may be reconsidered by a motion offered by any member who voted on the matter. If there is no action by an affirmative vote, the result is denial. If the matter involves an appeal and an affirmative vote does not occur, the result is that the decision appealed stands as decided by the decision-maker from which the appeal was taken.

4.1.2 Abstentions:

If a Commissioner is eligible to participate in the consideration of an item and wishes to not vote in the negative or affirmative on the item, the Commissioner may elect to abstain from the vote. Abstentions shall not count as votes for the purpose of determining whether there has been an affirmative vote of a majority of the members present, but shall be counted for the purpose of determining whether a quorum is present.

4.1.2.5 Recusals:

If a Commissioner is not eligible to participate in the consideration of an item due

to a conflict of interest, said Commissioner shall be considered recused from the voting, in which case the Commission member cannot be included in the quorum.

4.1.3 Roll Call:

Voting upon a motion may, at the discretion of the Chairperson, and shall, upon the request of any member, be by roll call. When voting is not by roll call, the Chairperson may, in the absence of objection by any member of the Planning Commission, declare an item to be unanimously approved.

4.1.4 Motions Include Staff Recommendations:

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 and any oral staff report presented during the hearing.

4.1.5 Absentees:

A Planning Commission member who is absent from any portion of a hearing conducted by the Planning Commission may vote on the matter at the time it is acted upon, provided that he or she has either reviewed the approved minutes of the hearing, or viewed the video 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 staff report or minutes presented during the portion of the hearing from which he or she was absent and states for the record before voting that the member 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.

4.2 Findings:

On any matter for which state law or City ordinance requires the preparation of written findings, the staff report submitted on the matter will contain findings proposed for adoption by the Planning Commission. Any motion directly or impliedly rejecting the proposed findings should 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.

4.3 Consent Calendar Items:

With the exception of voting on Resolutions where a decision was made at a prior meeting (see last paragraph below) items that require little or no discussion

by the Planning Commission may be considered as Consent Calendar items. The Planning Commission may act on these items in one motion at the beginning of the meeting. If the Consent Calendar items are acted upon in one motion then that means the staff recommendation was approved along with the findings and conditions set forth in the staff report.

Any member of the Planning Commission may request that Consent Calendar items be considered in their regular order on the agenda. Removal of an item from the Consent Calendar is subject to approval by a majority of the Commission members present.

In situations where the Planning Commission made a decision on an item at a prior meeting and requested that Staff bring back a Resolution memorializing that decision at a subsequent meeting when said Resolution would appear on the Consent Calendar portion of the Agenda, Staff should prepare said Resolution that includes the vote of the Planning Commission at the prior meeting when the decision was made. Additionally, at the subsequent meeting when the Resolution appears on the Consent Calendar, the vote taken on the Resolution during the Consent Calendar is the formal action on the project, which shall be reflected in the final adopted and signed Resolution. Therefore, when voting on a Resolution that represents a decision made at a prior meeting, each Planning Commissioner should ensure that his or her vote is accurately represented by so stating at the meeting. For example, if at the prior meeting Commissioners A, B, C and D voted "yes" and Commissioners E and F voted "no", then when the Resolution returns on the Consent Calendar with other Consent Calendar items on the Agenda, a vote in favor of approving the entire Consent Calendar may be registered by all 7 Commissioners; however, if Commissioners E and F want to vote "no" on the project they should specifically state that they are voting "yes" on the Consent Calendar, with the exception of voting "no" on the specified Resolution.

4.4 Continuances:

Upon a showing of good cause and by request of the applicant, member of the public, or member of the Planning Commission, the Chairperson, at the time set for a hearing on a particular item, may order the hearing to be continued. Upon the request of any member of the Planning Commission, continuance decisions shall be made by a motion and roll call vote of all members present. If the action is to continue a hearing to a specified date, no additional public notice is necessary. If the action is to continue the item to an unspecified date, additional public notice shall be given in accordance with state law.

5. **CONSTRUCTION AND EFFECT**

5.1 Construction:

These procedural rules 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 Planning Commission. Adoption and implementation of these rules is intended to be consistent with the provisions of California Government Code Section 65010(b).

5.2 Chairperson's Rules of Order:

After issuing a warning, the Chairperson may order from the Planning Commission Chambers any person(s) who commit the following acts with respect to a regular or special meeting of the Planning 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.
3. Disobedience of any lawful order of the Chairperson, which shall include an order to be seated or refrain from addressing the Commission or debating with other members of the public.
4. Any other interference with the due and orderly course of the meeting.

When there is no provision of these rules of procedure applicable to the conduct of the meeting or hearing of the Planning Commission, the Chairperson shall devise appropriate rules and make final decisions on any points of order, which may arise with the concurrence of the majority of the Commission.

PASSED, APPROVED, and ADOPTED this 28th day of June 2011 by the following vote:

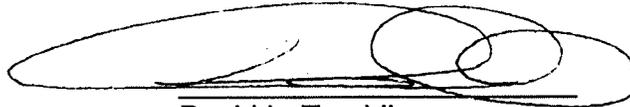
AYES: Commissioners Emenhiser, Gerstner, Leon, and Lewis; Vice Chair Tetreault and Chairman Tomblin

NOES:

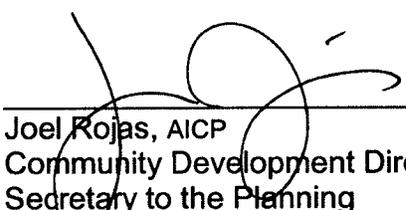
ABSENT: Commissioner Knight

RECUSALS:

ABSTENTIONS:



David L. Tomblin
Chairman



Joel Rojas, AICP
Community Development Director and
Secretary to the Planning
Commission