



CITY OF PACIFIC GROVE
 300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Chair and Members of the Architectural Review Board

FROM: Anastazia Aziz, AICP, Senior Planner

MEETING DATE: June 13, 2017

SUBJECT: Deletion of Architectural Review Board Rules and Procedures

CEQA: Does not constitute a “Project” under CEQA Guidelines

RECOMMENDATION

For information only.

BACKGROUND

On April 26, 2011, the Architectural Review Board Rules and Procedures were adopted by the ARB to supplement the guidance in *Council Policy 000-5*. The document was not adopted by Council and has no official standing.

DISCUSSION

The *Architectural Review Board Rules and Procedures*, proposed as a supplement to *Council Policy 000-5*, will be eliminated. The document was never formally adopted by Council, is redundant, and attempts to appoint members to another Committee, specifically the Historic Resources Committee, which is the purview of Council.

The document specifies that two of the seven ARB members shall also be members on the HRC which is problematic as it creates potential conflicts of interest, concentration of power, and undue influence of two ARB members on another Committee. An ARB member has not been part of the composition of the HRC for approximately two years.

Section E.2 of the *Rules and Procedures* states that they may be amended or suspended at any meeting of the ARB by a majority of the members. Given the document was never formally adopted by Council and the ARB is subject to Rules and Procedures outlined in adopted City documents, namely Council Policy 000-5 and official attachments and the Municipal Code, the document will be eliminated.

SUBMITTED BY:

Anastazia Aziz

Anastazia Aziz, AICP
 Senior Planner

ATTACHMENTS

1. *Council Policy 000-5*, Standard Protocols, Meeting Guidelines and Procedures
2. Architectural Review Board Rules and Procedures

**CITY OF PACIFIC GROVE, CALIFORNIA
COUNCIL POLICY**

SUBJECT	POLICY NO.	EFF. DATE	PAGE
Committee Classification; Board, Commission, and Committee Appointments and Procedures	000-5	February 2, 2011	1 of 3

1. Purpose. This policy establishes standards for: 1). the classification of Council committees; 2). the appointment of board, commission, and committee members; and 3). board, commission, and committee procedures.

2. Classification. The following classification shall be in place to handle the committee and other referral needs of the Council not otherwise subject to the jurisdiction of charter or municipal code boards and commissions:

a. Ad hoc committees. This class of committee shall consist either of citizens only or a mixed group of Council members and citizens. Such committees shall have limited assignments related to temporal issues and shall be expected to complete the assignments within a relatively short time. The Council shall provide a written statement of mission to an ad hoc committee, shall ask that the work of the committee be completed by a certain date, shall advise as to record keeping and form of recommendation and shall provide guidance on legal and practical aspects of proceeding with committee work, including suggested formats for agenda and minutes. Ad hoc committees shall be required to submit summary progress reports to the Council on a regular basis, or at least semi-annually. Unless otherwise directed by the Council, ad hoc committees shall designate their chair and vice chair. Ad hoc committees shall be free to request that the Council expand committee missions, i.e. scope of work, but shall make no such changes without specific approval of the Council.

b. Standing committees. This class of committee shall consist either of citizens only or a mixed group of Council members and citizens. Assignment(s) shall not necessarily be permanent, but a standing committee may exist to address issues arising more or less continually in an area of interest to the Council. With the exception of the time specific items, the provisions set out in the ad hoc committee section, above, shall apply as well to standing committees.

c. Council subcommittees. This class treats the situation where one, two, or three Council members are given direction to perform work/research and to return to the Council with some pre-assigned product.

NOTE: Staff shall not be named as committee members. Staff's role is advisory and supportive; naming staff as committee members confuses staff's relationship and responsibility to assigned committees.

3. Appointment of Board, Commission, and Committee Members.

a. Members of charter and municipal code boards and commissions are selected by the Mayor, subject to approval by the Council. Selection shall occur annually at the second regular meeting in January and on an as-needed basis thereafter. The appointment process includes a minimum two-week notification period, including posting, posting on the City's web site, and media notices specifying the board(s) or commission(s) having a vacancy, the number of vacancies on each, the

term of service, the application process, and the application closing date. The City Clerk shall make available a folder containing all applications for Council examination, and the Mayor's selections for Council approval will be placed on the next available regular meeting agenda following the closing date. If a vacancy arises during a term, and there are one or more active applications for that board or commission on file, appointment can be made from those applications, without re-noticing. This can help avoid a significant disruption in the operations of the board or commission due to extended vacancy. In any event, applications are valid for a maximum of only 12 months.

b. When considering appointments to a City Boards or Commissions, Pacific Grove residency and voter registration shall be required.

1. Residency in Pacific Grove is established when all of the following conditions are met: the applicant is registered to vote; the address listed on the applicant's drivers license; the address where the applicant receives his or her mail; and where the applicant physically resides, combined with the intent to remain there.
2. Should a Pacific Grove resident serving on a City Board or Commission no longer qualify as a Pacific Grove resident under paragraph (b) 1, above, that office shall be vacated.
3. As an exception to the residency requirement set by this paragraph (b), a non-resident may be appointed to the Economic Development Commission.

c. With respect to appointment of citizen members of ad hoc committees and standing committees, appointment opportunities shall be announced at a Council meeting and in the media, as appropriate, with a stated closing date that is a least one week before the meeting at which the appointments will be made. If there are not sufficient or appropriate applications, the time limit may be extended and announcements may be repeated. Recommendations shall be invited from everyone with interest or expertise, i.e., Council, staff, board/commission/committee members, and citizens. Recommendations shall be made to the Mayor or the City Clerk. Any interested Council members may review the applications in the Clerk's file. The Mayor shall submit final selections for Council approval on the next available regular meeting agenda following the closing date.

d. Membership of boards, commissions, and committees shall not be changed without Council approval.

e. In making appointments to the many bodies referenced in this policy, the Council shall endeavor to distribute the appointments as broadly as possible throughout the city population. Unless a special talent or expertise otherwise dictates, the Council shall not favor appointment of more than one member of a household to a single body. Further, in considering appointments, the Council shall be attentive to the City's status as an Equal Employment Opportunity (EEO) organization.

f. (1) With the exception of charter boards and commissions (which service limitations are set out in the city charter) a citizen member of a body covered by this policy shall not be reappointed to a new term if such reappointment would result in continuous service on the body for more than eight consecutive years. Service for less than a full term shall not be counted in applying the eight-year limit.

(2) Lengths of terms, commencement, and expiration dates of said terms for members of boards, commissions, and committees established by the Municipal Code shall be as provided by the

Municipal Code. Expiration dates are staggered, so as to provide continuity.

(3) Lengths of terms of standing committee members shall be as provided at the time the Council establishes a standing committee. Said terms shall in any event be set to expire on January 31 of the appropriate year.

(4) Ad hoc committee member terms shall be for the time required for the work of the committee to be completed, as specified by the Council.

g. Appointments to outside agencies shall be made by the Mayor subject to approval by the Council.

4. Board, Commission, and Committee Procedures. Charter, municipal code, ad hoc, and standing boards, commissions, and committees shall adhere to standard procedures for notice, conduct of meetings, reporting to the Council, and other matters, as provided in three documents—*Boards and Commissions Standard Protocols*, *Meeting Guidelines and Procedures*, and *Motions*—attached to and made a part of this policy.

5. Council Review of Board Actions. The City Council shall not “approve” the minutes of any board, commission, or committee; rather the minutes shall be “received.” If there is an item in the minutes that requires actions of the Council, it shall be separately and specifically listed on the Council agenda for action (see *Standard Protocols*, page 5). As set forth in the municipal code (PGMC §23.73.080) the Council, acting its next regular meeting following a final decision of any board or commission, may “call up” an item acted upon by that board or commission. The vote of three members of the Council shall be required to call an item for review. The action so called shall be reviewed by the Council, de novo, within thirty days of the decision to compel review. Notice of the review shall be provided in the same manner as required for the initial action. The review, by majority vote, may affirm or modify the original decision.

Attachments:

City of Pacific Grove Boards and Commissions Standard Protocols

City of Pacific Grove Boards and Commissions Meeting Guidelines and Procedures

City of Pacific Grove Boards and Commissions Motions

Adopted: June 17, 1992 Resolution No. 6280

Amended: September 1, 1993 Resolution No. 6361

Amended: March 29, 1996 Resolution No. 6-017

Amended: May 15, 1996 Resolution No. 6-026

Amended: January 8, 1997 Resolution No. 7-001

Amended: February 19, 1997 Resolution No. 7-006

Amended: September 1, 2010 Resolution No. 10-069

Amended: December 1, 2010 Resolution No. 10-103

Amended: February 2, 2011 Resolution No. 11-007



City of Pacific Grove
BOARD and COMMISSION
Standard Protocols

Every City board and commission needs basic protocols by which it operates. The standard protocols presented here are to be observed by all Pacific Grove boards and commissions (hereinafter referred to as “boards”). An individual board may append to these protocols additional standards relating to its specific needs.

I. Term, Council Charges, and Annual Work Plan/Calendar

Purpose. Generally, the City’s 11 boards advise the Council on matters within their jurisdiction. The City Charter and the Council have also delegated some decision-making authority to some of the boards. The City can achieve its overall goals only if all 11 boards function effectively. The specific responsibilities of all 11 boards are provided in *Current Duties of City Boards, Commissions, Panels, and Committees*.

Term. The term of each board shall be February 1 through January 31 of the following year.

Calendar and Annual Work Plan. The generalized annual board calendar is as follows:

Date	Task
Feb 1	Start of new term
Feb	Orientation of new member(s)
1 st Mtg in Feb	Organizational meeting: review City Council approved charter; elect officers; approve operating rules and procedures
Mar	Adopt work plan; AB 1234 training to be completed (biennial requirement) by all members
Apr	Secretary turns certificates of completion into City Clerk
June	First of two meetings of City Council with all chairs
Nov 1	Last date for City Clerk to publish vacancies
Nov	Second of two meetings of City Council with all chairs
Nov 30	Annual report due to City Council
Early Dec	Applications for vacant seats due
Jan	Mayor fills vacancies, with approval of City Council

At its first meeting after the February 1 start of the new term, each board shall agendize organizational actions and decisions. These actions include:

- ❖ Welcoming and installing new members.
- ❖ Electing officers.
- ❖ Starting the process of developing the effective relationships necessary for the members of the board or commission to work effectively together and with staff.

- ❖ Accepting or recommending updates to its duties, responsibilities, and authority.
- ❖ Reviewing and updating norms and standard procedures.
- ❖ Working with staff to continuing developing members' knowledge of the involved professional disciplines and current issues.

- ❖ Planning its year by developing its annual work program.

The annual work program is the commission's expressed joint effort for the year. It addresses the important problems, challenges, and opportunities that need to be addressed during the year. The work program should be developed within the framework of the City Council's adopted strategic plan (available on the City's website or from the Council liaison and lead staff) to ensure consistency.

In addition to each board's ongoing duties, it may from time to time, receive a specific request from the Council. Such requests will be in writing, specifying the exact request of the Council, and such details as the requested completion date.

II. Organization, Officers, and Responsibilities

Organization. The board shall consist of voting and, in some cases, non-voting members, appointed by the Mayor, with the approval of the City Council. Any member may be removed at the pleasure of the City Council. Terms are for two or four years and are generally staggered, to provide continuity. A board shall report to the Council the unexcused absence of any member from three or more consecutive meetings.

Officers. Following the installation of any new board members, a Chair, Vice-Chair, and Secretary shall be elected annually from among the board's membership at the first meeting in February, to serve at the pleasure of the board. Each officer is elected to serve a one-year term, which starts on February 1 of each year and is renewable in subsequent years.

The Vice-Chair shall succeed the Chair if s/he vacates his or her office before the term is completed, and shall serve the unexpired term. A new Vice-Chair shall be elected at the next regular meeting.

In the absence of the Chair and Vice-Chair, any other member shall call the board to order, whereupon a temporary Chair shall be selected from the members present, to preside over that meeting. In the event that an officer cannot serve due to resignation or other reasons, the committee shall select an interim officer to fill the position until the next organizational meeting.

The board Chair or, if there is no Chair, the person who called the meeting to order, will ask for nominations for the office of Chair. Any member of the board may nominate himself/herself or any other member of the board; no second is required. Once nominations are complete, the Chair will close nominations, announce the slate of nominees, and ask for a vote on the nominees in the order of nomination. Each voting member of the board shall have one vote. The nominee receiving votes from a majority of the members in attendance shall be declared the winner. If no member receives a majority, the process shall be repeated, except in the event of a tie between the top two vote-getters, in which case a run-off shall be held. The winner shall assume the office of Chair immediately. Using the same procedure, the new Chair shall secure the election of a Vice Chair and Secretary.

Responsibilities

The responsibilities and powers of board officers shall be as follows:

Chair

- In consultation with staff, determine the agenda.
- Call special meetings of the board.
- Preside at all meetings.
- Fully participate in the board's deliberations.
- See that all actions of the board are properly taken.
- Act as parliamentarian, applying and enforcing these protocols and parliamentary procedures.
- Sign all documents of the board.
- Report to the Council, at scheduled times and as needed, on matters of interest.

All process decisions by the Chair are final unless overruled by a majority of the board.

As a member of the body, the Chair has full rights to participate in dialogue and decision making, and to make and second motions. The Chair often strives to be the last to speak during any round, and generally does not make or second a motion unless he or she is convinced that no other member of the body will do so.

Vice Chair

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

Secretary

- Repeat motions prior to a vote, if requested by Chair.
- Prepare and attest to approved minutes.
- Forward meeting recordings to staff.
- Forward draft minutes to the members and the City Clerk as soon as possible after the meeting.
- Keep track of AB 1234 ethics training requirements and training sessions completed, for each member, and forward those to the City Clerk.

III. Committees

The board may appoint committees of less than a quorum of its members to address specific matters within its purview. In certain instances, a committee may be formed with members of two or more boards, to address issues crossing boundaries of normal responsibilities. Board committees have narrowly defined discretion and shall not stray from the board direction.

IV. Meeting Types

All board meetings shall be held in full compliance with all provisions of the Brown Act (California Government Code, Section 54954.2) the Municipal Code, and Council Policy. At a minimum, this shall include:

- Posting of the agenda a minimum of 72 hours prior to regularly scheduled meetings, with a listing of agenda items in terms adequate to advise the public of the business to be considered. (A catchall for "miscellaneous" or "new business" items is not permissible; new matters raised shall be placed on future agendas.) In the case of special meetings, notice and agenda posting shall occur a minimum of 24 hours prior to the meeting.
- Agenda and packet materials shall be available prior to meetings at a location to be

designated by the board and indicated on the posted agenda. Materials presented at meetings shall also be available to the public in attendance.

- Provision for public comment shall be made at all meetings for items on the agenda as well as matters not on the agenda that are under the purview of the board.
- Open and public meetings shall be the rule; all business of the board is to be conducted at such meetings. Closed sessions may be held only under Brown Act restrictions and upon approval of the city attorney.

Regular Meetings. Regular meetings shall be held at a regular date and time, either once or twice a month. Regular meetings shall also be held at a regular place, generally in Council Chambers or the City Manager's Conference Room. Whenever a regular meeting falls on a public holiday, no regular meeting shall be held on that day. Such regular meeting may be rescheduled to another business day or canceled by motion adopted by the board.

In the event it is the wish of the board to adjourn its meeting to a certain hour on another day, a specific date, time and place shall be set by the board, as part of the motion to adjourn.

If unable to attend a meeting, members should announce their upcoming absence prior to the adjournment of the prior meeting. If they become aware of their inability to attend after that, they should notify the Secretary immediately.

Meetings may be cancelled by the chair due to a lack of business, or if the Chair determines a quorum will not be met. Such cancellations shall be posted.

Special Meetings. Special meetings for the purpose of conducting study sessions or workshops, or for other purposes, may be held at any time upon the call of the Chair, a majority of the voting members of the board, or the City Council, following notice as required by law. The time and place of the special meeting shall be determined by the convening authority.

Meetings of Individual Members with Applicants or the Public. Meetings and other communication between a board member and members of the public interested in the outcome of an agenda item can be a valuable method for the board member to determine what decision will be best for the community. The board member should share useful information with the full board in open session.

When the board is acting on a given item in a quasi-judicial capacity, the member shall report on any such *ex parte* communications at the beginning of the meeting at which the item is considered (see *Meeting Rules and Procedures*).

V. Process and Administrative Matters

Agendas and Posting. The agenda for each meeting of the board shall be prepared by the Secretary or staff, and approved by the Chair. The number of items to be considered on each agenda will be determined based on the nature and complexities of the items and what can reasonably be considered in the two or three hours set for the meeting.

The agendas for all regular and special meetings shall be posted at the Library, the outdoor display cabinet at the City Hall, and on the City's web site. In addition, if the meeting is held somewhere other than at City Hall, the agenda shall be posted at that facility, in a location that is accessible by the public for a full 72 hours prior to a regular meeting, or a full 24 hours prior to a special meeting.

Any item within the board's purview may be placed on a future agenda when requested by a board member through the Chair. (An exception to this rule is reconsideration of a decision; see *Meeting Rules and Procedures*.)

Conduct of Meetings. Board meetings shall follow the meeting rules and procedures approved by the Council and provided in *Meeting Guidelines and Procedures*.

Recordings. Meetings shall be recorded on an audio tape or digital audio recorder, and kept by the Secretary or designee. The recording is to be erased after one year or upon approval of the minutes, whichever comes second.

Minutes. Minutes shall be kept, are to be limited to a report of actions taken at the meeting (including findings or a reference to the findings for quasi-judicial actions, and any appropriate attachments, and shall note either unanimity or a record of the vote for all actions). The draft minutes of all meetings shall be forwarded to the members and the City Clerk, so they can be included in the packets of the next available City Council meeting. Approved minutes shall be signed by the Chair and filed with the City Clerk.

Matters Needing the Attention of Others. Each board shall ensure that the Council or staff is notified promptly of matters needing the attention of Council, staff, or another board. Such matters can be noted clearly in the minutes, carried forward by staff, forwarded to the City Manager by the Council liaison, or presented to the Council by a member of the board at the next available Council meeting. If the matter needs prompt Council action, then the Chair shall ensure that the City Clerk is notified as soon as possible, to ensure the matter is agendaized and any additional necessary analysis can be undertaken.

Ethics. Each member of a board is a representative of the City and the board on which he or she serves. Each member has a duty to represent the City to the best of his or her ability, and to take those actions that the member believes are for the benefit of the City as a whole.

Each member shall take the required AB 1234 ethics training at least biannually and notify the Secretary upon completion. Each member shall adhere to the standards of ethics established by the City Council and file with the City Clerk on a timely basis all appropriate FPPC reports.

Annual Report. Each board shall forward to the Council, prior to January 1 of each year, a report on matters of interest. Such reports are not to repeat what is contained in the meeting minutes, but address those matters and suggestions that are designed to assist the Council and to improve the effectiveness of the board or the system of advisory boards in future years.

Adoption and Amendment of Board-Specific Protocols. A board may adopt board-specific protocols consistent with these standards. They shall be adopted and amended by a majority vote of the members present and voting, shall be reviewed annually by the board, and may be suspended at any meeting of the board by a majority vote of the members present and voting.



City of Pacific Grove Board and Commission Meeting Guidelines and Procedures

The best board meetings are an appropriate mixture of formality and informality, process and substance. Too much structure can prevent effective decision-making; too little structure enables those who do not agree with the majority to stifle progress. In order to strike the right balance, Pacific Grove boards and commissions use simplified rules of parliamentary procedures for conducting their meetings.



Parliamentary procedures are the body of commonly accepted rules and customs governing meetings and other operations of deliberative assemblies. Such groups follow parliamentary procedure to elicit a broad range of perspectives, deliberate collaboratively, and reach the best possible group decisions, while simultaneously continuing to develop the group's capabilities.

Fundamentally, parliamentary procedures assist groups effectively meet and make decisions in a fair and consistent manner—and make good use of everyone's time. The procedures provide a mechanism whereby: 1) only one subject may rightfully claim group attention at one time; 2) every proposal properly presented for consideration is due a free and full deliberation; and 3) the will of the majority is determined in orderly procedure, while preserving the rights of the minority. The guidelines provided in the next few pages have been developed and tested over time. They work best when they become second nature.

Many new members might initially assume that a City board or commission must operate under *Robert's Rules of Order*¹. The City Code requires the City Council to adhere to Robert's Rules (PGMC §2.04.010) but is silent as to boards and commissions. As a result, we use a simpler set of procedures, featuring group-friendly norms. These norms allow the use of well-accepted meeting facilitation tools that enable all members of the board or commission to engage in a more productive dialogue to address constituency problems and opportunities. Boards and commissions benefit from a shared sense of inquiry, trust, empathy, and collaboration, which are often inhibited by the use of rigid rules.

Parliamentary procedures should assist a board in being successful, and never get in the way of success. To the extent that meeting facilitation techniques (detailed in several documents, see the list of sources, at the end) can augment or supplant rules, the board benefits. More formal use of these guidelines is appropriate for items with greater importance, having greater legal strictures, or subject to greater conflict.

Boards and commissions (hereinafter referred to as "boards"), and their committees, shall adhere to these guidelines and procedures for notice, conduct of meetings, reporting to the Council, and other matters, to the end that all deliberations are conducted and actions taken openly, that the public is well informed in a timely manner, and that the work is performed for the entire community's benefit.

The failure of a board or its committees to conform to these guidelines shall not in any instance invalidate the action taken.

I. Quorum

A quorum shall consist of a majority of the board's voting member positions. On a 5-member board, the quorum is 3; on a 7-member board, the quorum is 4. There is no meeting when a quorum is not present. Either an ex-officio member or a vacancy reduces the number of voting member positions.

II. Order of Business

The order of items shall be based on the complexity and importance of the items. Generally, the order of business shall be as follows:

1. **Call to Order.** The presiding officer shall take the chair at the hour appointed for the meeting and call the meeting to order. Members present and absent shall be recorded; the Secretary shall announce if a quorum has not been achieved.
2. **Approval of Agenda.** Items to be continued, withdrawn, or reordered.
3. **Public Comment**
 - a. **Written communications.** Receive written correspondence related to a matter within the board's purview not but on that meeting's agenda. Such communications have been included or listed in the agenda packet or, if received after the distribution of the packet, placed at the members' positions. Note: correspondence from members of the public relative to an item on that meeting's agenda are noted during the board's consideration of that item.
 - b. **Oral communications.** Receive oral input from members of the public on any item within the board's purview but not on that meeting's agenda. Comments are generally limited to three minutes and will not receive board action. Note: comments from members of the public relative to an item on that meeting's agenda are normally taken during the board's consideration of that item. However, the chair may accept public comment at the beginning of the meeting on items on the agenda, in the case of schedule conflicts, site visits, or other appropriate reasons.
4. **Member and Staff Announcements**
 - a. **Attendance at meetings with relevance to the board.** Information gleaned that may be helpful to other members should be shared. In addition, CA Gov't Code §53232.3(d) provides that, "Members of a legislative body [*which, based on the State's definition, includes all City advisory boards*] shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body."
 - b. **Ex Parte Meetings and Communications.** It is the responsibility of each member of a decision-making or advisory body to be as well informed as is feasible on matters that are to be addressed by the body. If a member of a decision-making or advisory body is contacted by a member of the public on such a matter, and provided information that is germane in developing his or her position on an issue, that information is also of value to other members of the body and should be shared.

If the issue is quasi-judicial (“adjudicative”), members should seek to avoid receiving any such information outside of the meeting. Quasi-judicial matters are applications and hearings that determine rights or obligations of named individuals or of specific property, such as requests for variances, appeals, and similar matters. These matters require a decision based upon notice and a hearing record. If a member does receive a communication on a pending quasi-judicial matter, the member shall announce such *ex parte* communication at the beginning of the body’s consideration of the item and shall share the information received with the other members. Copies of the communications, including but not limited to electronically transmitted communications such as email, email attachments, and facsimile transmissions, shall be included in the public record.

b. Consent Agenda

- a. **Approval of Minutes of Prior Meetings.** As a general rule, the minutes of one meeting should be available for approval at the start of the next meeting. This helps every member be fully up to speed on the board’s actions, whether they attended the prior meeting or not. It also helps get people’s minds in gear.
- b. **Other routine and non-controversial items,** including receiving the minutes of other bodies.

Any member of the board or public has the right to pull an item from the Consent Agenda. If an item pulled from the Consent Agenda can be handled quickly, it can be addressed immediately following approval of the remaining Consent Agenda items. If the item now appears to be controversial or otherwise time consuming, then it often best addressed later in the meeting, in its correct spot on the Regular Agenda.

c. Regular Agenda

- a. Public Hearings
 - b. Continuing and Unfinished Business
 - c. New Business
 - d. Reports from Subcommittees
- d. **Adjournment.** The Secretary shall announce the date and time of the next meeting. It is helpful if any member who will be unable to attend announces that now.

Depending on the board, meetings should be scheduled to last either two or three hours. As a convenience to members and the public, meetings shall generally be kept within the scheduled time limits.

The board will not normally consider any new items after a set time, to be determined by the board. Affirmative vote on a motion to extend the meeting is required. Any items remaining on the agenda shall be continued to either the next regular meeting or a special meeting, at the discretion of the board.

III. Addition of an Item to the Published Agenda

Items not included on the posted agenda may be considered only if they fall within any of the below exceptions:

- In advance of the meeting—by creating an amended agenda, circulating the agenda and item to the board members, and posting all materials on the City’s website at least 72 hours prior to the meeting.
- At the meeting—there are two possibilities. First, when a majority of the members decides an emergency exists; an emergency includes a work stoppage, crippling disaster, or any other activity that impairs public health and safety. Second, when two-thirds of the members present and voting (or, if less than two-thirds of the members are present, a unanimous vote of those members present) decide that there is a need for immediate action that cannot reasonably wait until the next regularly scheduled meeting and the matter came to attention only after the agenda had been posted².

If an item does not fall within one of these exceptions it may not be discussed and acted upon, but may be added to a subsequent agenda.

IV. The Process for Consideration and Action on an Agenda Item

The agenda constitutes the body's agreed-upon road map for the meeting. Most regular agenda items can be handled by the board and chair in the following 4-phase process. Reasonable variations are acceptable; on simple items, several steps are often combined.

A. Presenting Item

1. **Opening Item.** The chair should clearly announce the agenda item number and should state what the subject is. The chair should then announce any special procedures to be followed (e.g., if the item is a public hearing.) This is also when any member would announce his or her recusal, if a conflict of interest exists, and leave the room.

2. **Hearing the Report.** Following that announced procedure, the chair should invite the appropriate people to report on the item, including any recommendations they might have. The appropriate person may be a member of the governing body, staff, or the chair of a committee that was charged with examining the matter in depth prior to its consideration by the board. Verbal presentations should be short, so as to not repeat the basic information that should have been included in the agenda packet. (By including all key information in the packet, members of the commission and the public can be informed about the item before the meeting, and have already requested any additional information they desire.) The prepared information should include the purpose of the item, all needed background information, options considered, the results of any analysis, and the recommended action, if any. Some chairs provide an opportunity here for board members to ask any clarifying questions of the person providing the report. Others do not, as this has a tendency to segue into position statements before public input is taken, which is inconsistent with open meeting principles.

B. Taking Public Input. The chair then opens the meeting to public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the total amount of time available for public comment in order to ensure all items set for consideration may be heard at that meeting. At the conclusion of the public comments, the chair should announce that public input has concluded (or that the public hearing, as the case may be, is closed). A challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items. The chair should not allow any person to go over the limit, stray from the topic, or become

disrespectful or abusive.

C. Considering the Item—the chair then brings the matter to the board for a collaborative, less formal deliberation.

1. **Developing a Common Knowledge Base and Understanding.** The chair should ask members of the body if they have any questions of the person(s) making the report or others with knowledge relevant to the issue. Questions should go through the chair.
2. **Identifying Options.** The chair should invite members to identify all alternative solutions to the questions and issues at hand. It is important to get all options on the table early in the deliberations, so they can be addressed simultaneously, not sequentially.
3. **Deliberating.** Once the options have been identified, unless the path forward is clear to all, the chair should ensure that the board undertakes deliberations that analyze all the options in full. As we do not follow Roberts' Rules, but instead more collaborative norms, the chair has great flexibility in how this is to be conducted. Initial discussion should focus on identifying all relevant facts, ensuring the full range of alternatives has been identified, and inquiry, not advocacy. An analysis of the advantages and disadvantages of all identified alternatives should be undertaken. This can often be facilitated by the creation of a visual record, such as a separate flip chart for each alternative, with separate space for the pros and cons. Time committed to this step should be adequate to allow the sense of the commission to emerge.

D. Deciding—the matter stays at the board, but more formality is introduced.

1. **Motion and Second.** The chair should then invite a motion from the members. When a motion is made, the chair should ask for or accept a second. If there is no member willing to second, the motion would stand little chance of passage. If no other motion is offered, the board is probably not ready to make a decision. Thus, the chair should ask the members what additional information needs to be presented, or what other steps need to be undertaken, for them to be ready.
2. **Discussing the Motion's Merits.** Once a motion is made and seconded, and the chair believes all members understand the motion, the chair should allow any additional desired discussion. This allows those supporting the motion, and those who may be opposed, to give their reasons. Now is the time for opinion and persuasion; advocacy not inquiry.

Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal or emotional.

3. **Voting.** If there is no desired discussion or the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or a very brief discussion, the vote should proceed immediately, and there is no need to repeat the motion. If there has been substantial discussion, the Chair should ask the secretary or staff to repeat the motion.
4. **Announcing Action Taken.** Upon the completion of the vote, the Chair shall announce the result of the vote and what action (if any) the body has taken. In announcing the

result, the chair shall indicate the names of the members, if any, who voted in the minority on the motion. (Note: effective January 1, 2014, state law now requires an oral announcement of all voting positions.) This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. The board has approved the proposed work plan for the year, with two adjustments.”

Public Hearings. For public hearings, there are a few additional guidelines. After receiving the staff report, the Chair opens the public hearing and accepts testimony in the following order:

1. Statement of the applicant and/or his/her agents.
2. Public input on the matter.

The Chair shall then close the public hearing.

The public input portion of the public hearing may be reopened before voting on the item if a new issue is raised. It is not necessary to re-open a public hearing to ask questions of the project applicant. If the public hearing is reopened, all interested parties may be heard, but the chair can limit the input to the new issues and can further limit the time per comment.

Rules of Testimony. No person or member shall address the board without first securing the permission of the Chair to do so. All comments shall be addressed to the board as a whole. All questions shall be placed through the Chair.

Speakers are not required to give their name or address, but it is helpful (though not required) for speakers to state their name in order that the secretary may identify them in the minutes of the meeting.

If there are numerous members of the public who wish to participate on the issue, and it is known that all represent the same opinion, a spokesperson should be encouraged to speak for the entire group. The spokesperson will then have the opportunity of speaking for ten minutes and of presenting a complete case.

To avoid unnecessary cumulative evidence, the Chair may limit the time of testimony to not more than three minutes on a particular issue by each individual. However, an applicant and designated opponent are generally allowed ten minutes of comment and an opportunity to rebut at the end of public comment.

V. Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly, and with full participation. And at the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. In the absence of informal facilitation of dialogue, it is best for only one person at a time to have the floor, and it is best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focus on the item and the policy in question, not on the personalities of the members of the body. Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal or too emotional.

Getting the floor. Every member desiring to speak shall address the chair and, only upon recognition by the chair, confine contributions to the matter at hand, avoiding all indecorous language and personal attacks.

In general, a member may not interrupt the speaker except for the following reasons:

- **Privilege.** The proper interruption would be: “Point of privilege.” The chair would then ask the interrupter to, “State your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.
- **Order.** The proper interruption would be: “Point of order.” Again, the chair would ask the interrupter to, “State your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting; for example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.
- **Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded and, after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.
- **Call for orders of the day.** This is simply another way of saying, “Let's return to the agenda.” If a member believes that the body has drifted from the agreed upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.
- **Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn; and any other member may make the motion, once recognized.

VI. Motions

Motions are the vehicles for decision making. As indicated above, a motion should be introduced on a matter after general information is shared and options have been identified, but before members share their opinions and seek to persuade.

The chair shall ensure that all motions are clearly stated and commonly understood before allowing deliberations to begin.

The types of motions, and the hierarchy of motions, are described in an accompanying document, *Motions*.

VII. Voting

Voting Requirements. The City Code requires the affirmative vote of a majority of the total members of a board or commission (excluding any non-voting members), on any item, for any

action by a board³, unless otherwise provided. In addition, proxy votes for absent members are not allowed.

Disqualification from Voting; Recusal. A board member shall disqualify him/herself from deliberation and voting on any matter before the board, prior to the board's consideration of the matter, when there is a conflict of interest requiring disqualification as a matter of law. A member may also disqualify him or herself due to personal bias or the appearance of impropriety.

Upon the chair's announcement of an item, the member shall state that he/she is disqualifying him/herself due to a conflict of interest, state the nature of the conflict (e.g., financial), and leave the voting area until the completion of that item. Best practice is to leave the room, since facial expressions and other gestures might otherwise be viewed as an attempt to influence the remaining board members. (Given that the Council chambers sound system allows people in the hallway and outdoors, members of Boards meeting there can still listen to the proceedings even upon leaving

Should the number of members recusing themselves as a result of a conflict of interest disrupt the quorum, the "rule of necessity" allows the random selection of the fewest number of conflicted members to vote as is needed to enable a quorum to participate and reach a decision.⁴

If a member is in doubt as to whether or not a conflict of interest exists, s/he should consult with the City Attorney prior to the meeting.

Abstentions. Abstentions are discouraged; full participation and voting by all members is necessary to represent the diverse interests in the community and contributes to better decisions. A member should abstain from voting only because of lack of participation in an evidentiary proceeding before the board if the member had not had opportunity to review the record on the matter; such member will be recorded as absent for that item.

A member present for consideration of a motion who opposes the motion must vote against it. In the event of an abstention the abstainer in effect, "consents" that a majority of the quorum of the members present may act for him or her. Thus, a member who abstains (for any reason other than lack of opportunity to review the record) is deemed to acquiesce in the action taken by the majority of members who voted.⁵ As an example, on a 5-member board, if the vote is 2 in favor, 1 against, with 1 absence and 1 abstention, the motion is approved, since a quorum was present and a majority of the total membership is judged to have voted in favor.

Voting Methods. When a motion is not likely to be opposed, the chair says, "If there is no objection, ...". The members show their agreement, called "general consent," by their silence. If a member says, "I object," the item is put to a vote. Most votes shall be by voice vote. The chair asks those in favor to say, "Aye," and those opposed to say "No." If the outcome is unclear by voice, a hand vote may be taken. Any member may move for an exact count. In some cases, a roll call vote is required, with each member answering "yes" or "no" as his or her name is called. The order of voting for roll call votes shall be random. Secret ballots are allowed, but not required, only for elections of officers.

Tie votes. Tie votes may be reconsidered during the time permitted by these guidelines on motion by any member of the board voting aye or nay during the original vote. Before a motion is made on the next item on the agenda, any member of the board may make a motion to continue the

matter to another date. Any continuance for this purpose suspends the running of any time in which action of the board is required by law. In addition, any member may agendaize a matter that resulted in a tie vote for a subsequent meeting.

Recording of Votes. The minutes of the board's proceedings shall show the vote of each member, including whether they were absent or failed to vote on a matter considered. This is normally done as shown in the following example: "The motion passed 5-2, Brown and Smith voting no."

Members may change their votes before the next item on the agenda is called. A short recess called immediately after a controversial vote can sometimes help give members time required for reflection and needed second thoughts.

Silence constitutes an affirmative vote. Members who are silent during a voice vote shall have their vote recorded as an affirmative vote, except when individual members have stated in advance that they will not be voting.

VIII. Majority and Super-Majority Votes

Unless a super-majority is required (addressed in the accompanying document, *Motions*), a simple majority determines whether each motion passes or is defeated. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

IX. Deciding to Move on

Items may be continued by a board to a continuation (or subsequent) meeting for the following types of reasons:

- The board requires additional information during the meeting.
- New information or issues come to light during the meeting that need further study.
- Other reasons deemed appropriate and substantial by the board.

In addition, a board that has been delegated authority to act on submitted applications (e.g., ARB, NRC, TSC, and Planning Commission) may continue an item when:

- The applicant cannot appear at the meeting and has requested that the item be continued.
- The application is revised by the applicant during the meeting.
- The board requests that the application be revised.

X. When Action Is Necessary

Once there is a defeated motion, the chair needs to decide how to proceed, based on the type of issue being addressed, and the reason the motion was defeated. The chair can, for example, facilitate additional fact-finding, analysis of the issue, or dialogue that can lead to a motion able to garner a majority. Before positions become hardened, it is frequently helpful to step back and explore shared interests. Such efforts should be continued until action is achieved or it becomes clear that the body is not likely to become "unstuck." In most circumstances, the chair should then move the group on to the next agenda item.

In certain circumstances—a permit application, for example—the lack of any action is not acceptable (e.g., an application must ultimately be approved or denied). There are four primary options here:

- ❖ *Continuing the item.* This is often undertaken if one or more members of the body are absent or if new information can be developed. Continuance can also provide the applicant time to consider his/her options, develop a project more likely to receive approval, etc. Continuance is normally undertaken only with the concurrence of the applicant, and generally requires a super majority.
- ❖ *Technically denying the application.* This option is based on the philosophy that, for a project that has been proposed, approval requires a majority of members to vote in favor. Anything less than the required majority is thus considered a denial. One option under “technical denial” is to allow any applicant or other party to appeal the matter (assuming an appeal would otherwise have been available) on the grounds that the matter was “deemed denied.” This option avoids the need for the body to take further action (e.g., if the body is unable to achieve a majority vote to forward the matter to the next higher body).
- ❖ *Denying the application without prejudice.* This option may, in some situations, require at least one member of the body to switch his or her vote, in order to vote to deny for procedural reasons only. Such reasons should be stated in the motion, so the record is clear. It allows the applicant to either: 1) appeal to the next higher body; or 2) resubmit the same project or a modified project reflecting board or City input, without paying fees, waiting a minimum number of months, etc. (such a delay could be for any number of possible reasons, including awaiting turnover on the board). This option is in addition to the provisions exclusively for the Planning Commission detailed in PGMC Section 23.70.080.
- ❖ *Forwarding the matter to the next higher body for a de novo hearing.* This is similar to an appeal, but since it is an action of the body (and therefore takes a majority vote) requires no fees or other action by the applicant. [Note: this option is generally not available for land use issues. Before any board takes such action, staff supporting the board should check with the City Attorney.]

XI. Discipline

Each group has the authority to enforce its own rules. The chair should respectfully point out any fault or violation of these rules and request the member to avoid such action. If the member refuses to conform, the chair shall call the member to order by stating, “The member is out of order,” direct the member to conform, and indicate what remedy will be taken if the member refuses to conform. If the member still refuses to conform, the chair should clearly state the breach involved and put the question to the group: “Shall the member be allowed to continue _____.” This question is not debatable and is followed immediately by a call for votes. In extreme cases, the body may then ask the member to leave or the chair may call either a recess or an adjournment. In such cases, the chair shall direct the secretary to describe in the minutes the objectionable actions by the member in sufficient detail so that members not present will fully understand the reasons for the body’s actions.

If it is the chair who is violating the rules, then any member may call a, “Point of order.” After the member describes the concern, the chair shall either agree and make the appropriate adjustment, or

shall put the question to the group, as above.

XII. Special Notes about Public Input

The guidelines outlined here help make meetings very public-friendly. But in addition, and particularly for the Chair, it is often wise to apply three general guidelines that apply to each agenda item:

1. Tell the public what the body will be doing.
2. Keep the public informed while the body is doing it.
3. When the body has acted, tell the public what the body did.

Public participation in public meetings is an important element of our community's decision-making process. One challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items.

In summary, the guidelines presented here for conducting a meeting are offered as tools for effective meetings and as a means of developing sound public policy. When these guidelines are silent, the chair shall decide all questions of order, subject to appeal by a member. When in doubt, the chair may submit the question to the board, in which case a majority vote shall prevail.

Notes

- ¹ Robert III, Henry M. et al., *Robert's Rules of Order*, 10th Edition, Cambridge, MA: DaCapo Press, 2009, Introduction and Chapter 1.
- ² California Government Code §54954.2(b)
- ³ PGM C §3.02.070 and §3.04.080
- ⁴ Pursuant to the Political Reform Act.
- ⁵ This protocol is based on several California Appellate Court decisions, an opinion of the Attorney General, and common law.

Sources

- Doyle, Michael and David Straus, *How to Make Meetings Work: The New Interaction Method*, New York: Berkley Trade, 1993.
- Institute for Local Government, *An Ounce of Prevention: Best Practices for Making Informed Land Use Decisions*, Sacramento, CA, 2006.
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