

BOARDS, COMMITTEES AND COMMISSIONS
HANDBOOK

CITY OF PACIFIC GROVE

MARCH 6, 2019

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1. Introduction

The City of Pacific Grove's (City) boards, committees and commissions (Committees) serve vital roles to support a well-functioning local government. The better committees function, the better local government can serve the needs of its residents. It is towards this end that this handbook has been prepared.

The scope of Committee responsibilities, procedures, and applicable laws is wide. It would be impractical to include all relevant material in one document. Therefore, this document is intended to provide: (1) a brief overview of key subject areas and (2) reference more in-depth materials on specific subjects.

General communication and interpersonal skills promoting good civil discourse and decision-making are, of course, extremely helpful for any well-functioning committee. However, broad subjects such as these are beyond the scope of this handbook.

This handbook is intended to help Committee members better understand their roles and responsibilities, governing regulations, and meeting protocol for effective decision-making.

Current and past committee members have given generously of their time and talents for the benefit of all residents. Their contributions to Pacific Grove are gratefully acknowledged.

Bill Peake, Mayor
Heidi A. Quinn, Assistant City Attorney

2. Committees

Committees formed through the City's Charter are:

- Planning Commission
- Library Board
- Museum Board
- Recreation Board

These are referred to as Charter Committees. A vote of the people is required to change the City Charter.

Committees established by the Pacific Grove Municipal Code (PGMC) are:

- Architectural Review Board
- Beautification and Natural Resources Commission
- Economic Development Commission
- Golf Links Advisory Commission
- Historic Resources Committee
- Traffic Safety Commission

A City Council ordinance is required to change the PGMC.

Many other City Committees exist but are not listed above. While basic Committee responsibilities and regulations apply, their nature differs in one or more significant ways. To simplify the handbook, rules and processes specific to those Committees are not set forth, including:

- Ad hoc, standing, City Council and City Manager subcommittees. An example is the Site Review Committee. See the PGMC and City Council Policy 000-5 governing such Committees.
- The Administrative Enforcement Hearing Officer Panel established by PGMC Chapter 3.30. Its procedures are further described in PGMC Chapter 1.19, Municipal Code and Ordinance Enforcement.
- The Downtown Pacific Grove Business Improvement District (BID) Advisory Board revised by City Council Resolution 07-042, September 19, 2007 (See link to this resolution on the BID webpage). Rules governing this advisory board can also be found in PGMC Chapter 6.50.
- The Pacific Grove Hospitality Improvement District (HID) Advisory Board established by City Council Resolution 07-044, November 7, 2007 (See link to this resolution on the HID webpage). The HID is described in PGMC Chapter 6.54. Additional HID documentation can be obtained on the City's website. (See City Council resolutions 18-015 and 18-047.)
- The Cultural Arts Commission. (PGMC Chapter 3.28)

3. Committee Membership

Committee Member Selection Process

Committee members are appointed by the Mayor in January of each year, subject to confirmation by City Council at a public meeting (Charter Article 26; Policy 000-5). Vacancies created mid-term are filled in the same manner.

Committee Member Qualifications

Residency requirements for appointed committee members are described in Charter Article 26 and Council Policy 000-5. However, residency exceptions may be made for the Economic Development Commission and the Golf Links Advisory Commission.

Members shall not hold any paid office or employment in the City government or be a member of any other Charter Committee (Charter Article 26).

Additional member qualifications are set forth in the PGMC, including:

- Architectural Review Board - PGMC § 23.70
- Beautification and Natural Resources Commission - PGMC § 3.24
- Economic Development Commission - PGMC § 3.40
- Golf Links Advisory Commission - PGMC § 3.42
- Historic Resources Committee - PGMC § 23.76
- Traffic Safety Commission - PGMC § 16.08

How to Apply

Application forms for Committee appointments are available from the City Clerk and can be obtained from the City website. Applicant contact information is not made public, but qualifications are.

Upon Joining the Committee

New Committee members, before assuming their responsibilities, must take an oath of office as described in the California State Constitution Article XX, Sec. 3. (See also Govt. Code § 1360; Charter Article 3). Oaths are administered by the City Clerk.

Select Committee members, designated in the City's Conflict of Interest Code, are required to submit a Statement of Economic Interests (FPPC Form 700) to the City Clerk within 30 days after assuming office. (See PGMC § 2.40)

New Committee members must participate in Government Code § 53235 (AB 1234) ethics training, within 12 months of appointment. This training is available from many sources, and compliance sessions are also provided by the Office of the City Attorney.

Terms of Office

Committee terms begin February 1st except when filling a seat vacated mid-term. Terms end January 31 of the designated year.

Charter Committee appointments are four-year terms, unless earlier removal is warranted or there is a mid-term vacancy. A limit of three consecutive full terms shall apply (Charter Article 26). Member terms are staggered (PGMC § 3.02.050).

For all other Committees, terms are limited to two years, with staggered terms. Committee members may not be reappointed to a new term if reappointment would result in continuous service for more than eight consecutive years (Council Policy 000-5).

Removal from Office

Unexcused absences from consecutive regular meetings provides grounds for removal from office. See the PGMC for further details.

Further, all Committee members serve at the pleasure of the Council. The Council, by an affirmative vote of four of its members, may remove any Committee member at any time during the member's term of office (Charter Article 26). Possible reasons for removal include but are not limited to: excessive absences, verbally or physically abusive behavior, violations of ethics, violations of Council policies, conflicts of interest, among other causes.

Leaving Office

Committee members may resign at any time. Sixty (60) days' notice is suggested to enable a replacement to be identified and appointed without causing a gap in Committee membership. Each Committee member must file an FPPC Form 700 Leaving Office Statement within 30 days of leaving office.

4. Role of Committees

All Committees have an advisory role to City Council and the City Manager. This advisory role is constrained to the Committee's area of responsibility, as set forth in the PGMC.

A few Committees have areas in which they hold delegated decision-making responsibility by the Municipal Code or by Council. Thus, the Planning Commission grants use permits and variances; similarly, a member of the Administrative Hearing Panel hears appeals of certain code enforcement actions.

The primary function of City Committees, however, is to advise. Both informal and formal means of communication may be used, as appropriate, to fulfill this advisory role. Committee recommendations related to City actions may be presented at City Council meetings as individual agenda items (Council Policies 000-5 & 000-6). While advice may not always be taken, Committees have the duty to advise on policies or issues as the law directs.

Committee responsibilities are more specifically set forth in the Charter and the PGMC:

- Planning Commission - Charter Article 26.a. & PGMC § 23.70.080
- Library Board - Charter Article 26.b. & City Council minute action August 17, 2011 (See link to minute action on Library Board webpage)
- Museum Board - Charter Article 26.c. & Resolution 11-072 September 7, 2011 (See link to resolution on Museum Board webpage)
- Recreation Board - Charter Article 26.d.
- Architectural Review Board - PGMC § 23.70.060
- Beautification and Natural Resources Commission - PGMC Chapter 3.24
- Economic Development Commission - PGMC Chapter 3.40
- Golf Links Advisory Commission - PGMC Chapter 3.42
- Historic Resources Committee - PGMC § 23.70.070
- Traffic Safety Commission – PGMC § 16.08.040
- Administrative Hearing Panel – PGMC § 3.30

Most Committees function in policy mode, which is a quasi-legislative responsibility. This includes, for example, recommending changes to the PGMC if within the Committee's jurisdiction.

Committees may also function in a hearing mode, from time to time, which is a quasi-judicial responsibility. This includes granting permits and hearing appeals, pursuant to the PGMC. The latter responsibility requires decisions supported by evidence presented at the hearing, which has been entered into the formal record. Those Committees are:

- Planning Commission
- Architectural Review Board
- Historical Resources Committee
- Beautification and Natural Resources Commission
- Traffic Safety Commission
- Administrative Hearing Panel

Committees may also perform additional duties as assigned by Council. Most Committees are distinct and without significant overlap. As a result, a single issue or opportunity is not likely to be addressed by more than one body. The responsibilities of some Committees intersect. In such cases, it benefits the Committees to understand the Charter and philosophy of the others to best serve the public on issues of mutual concern.

5. Role of Committee Members

Members

The primary role of all Committee members is to attend meetings and be prepared to discuss and vote on agenda items. If unable to attend a Committee meeting, a member should notify the Committee Chair as soon as practical.

Officer Elections

Charter committees must elect a Chairperson, or Chair, to serve a one-year term at the first meeting in February (PGMC § 3.02.050). This is also the practice of other Committees.

The Committee 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 Committee may nominate himself/herself or any other member of the Committee; 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 Committee 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. The Committee may also appoint a Secretary.

Chairperson

The Chair is responsible to preside at meetings, establish the agenda with input from Council, staff and other Committee members, call special meetings, sign Committee documents and report to City Council as needed.

The Chair is responsible for the timely filing of minutes with the City Clerk. Staff may assist in this responsibility upon request of the Chair.

Vice-Chairperson

The Vice-Chair assumes the Chair's duties in their absence. The Vice-Chair shall succeed the Chair if they vacate office before the term is completed and shall serve the unexpired term. A new Vice-Chair shall be elected at the next regular meeting.

Secretary

If a Secretary is appointed by the Committee, the Secretary is responsible for meeting minutes, which are forwarded to the City Clerk upon Committee approval. However, without a Secretary, preparation of minutes may be fulfilled by staff liaison at the request of the Chair.

Subcommittees

Subcommittees may be appointed by the Committee to accomplish a specific goal within a given timeframe. Subcommittee membership must be less than a quorum. Staff are not members of subcommittees.

Staff Liaison

Staff is assigned to Committees by the Department Head or City Manager to assist the Committee in accomplishing its objectives. (Such support does not always translate into attendance at the meetings; written reports or interaction with the Chair prior to the meeting may suffice.)

Staff is responsible for meeting noticing. Staff assists the Chair with meeting protocol and agenda packet preparation. If requested by the Chair, staff may prepare committee minutes. Staff is responsible for maintaining the Committee's webpage and ensuring it is up-to-date. Staff may edit the webpage as directed by the Chair, with City management concurrence.

Staff may inform the Committee of City activities, identify issues within the Committee's purview, provide advice and assist in communications with the Department Head, City Manager, or City Council.

Staff may also accept work assignments from the Committee given City management or Department Head concurrence.

The City Attorney's office is available to provide legal counsel to Committees and when present at Committee meetings can assist with protocol.

Council Liaison

Each Committee has a Council liaison appointed by the Mayor subject to confirmation by City Council.

The Council liaison may provide an informational report, answer brief questions, and provide background information regarding Council actions or intent. The liaison may assist the Chair with process or protocol and how to best communicate committee actions to City Manager and City Council.

The Council liaison is not a Committee member and must not participate in Committee discussions of agenda topics nor influence Committee decisions since they may later be required to review and act on Committee decisions or recommendations.

6. Committee Meetings

Meeting Types

All Committee meetings are governed by the Ralph M. Brown Act (Brown Act), California Government Code §54950 *et seq.*

Regular Meetings

Regular meetings shall be held at a regular date, time and place, which may be specified in the PGMC. Regular meetings may be rescheduled with posting of a cancellation notice and notification of a Special Meeting. Meetings may be cancelled due to a lack of business or if a quorum cannot be obtained.

Special Meetings

Special meetings are those meetings held outside the regular meeting date and time. Special meetings may be held at any time upon the call of the Chair, a majority of Committee members, or City Council, followed by noticing as required by law. Special meetings may be called to meet deadlines, conduct study sessions or workshops, or when quorum was not met for a regular meeting.

Serial Meetings - Prohibited

Serial meetings occur when Committee members meet or discuss matters sequentially in pairs or small groups. The combined effect of sequential, or serial, meetings may inappropriately be a meeting of a quorum of Committee members. For example, if a member of a 7-member Committee speaks to more than two other members, it may constitute a serial meeting. Inadvertent use of email, careless use of the “reply all” function, indiscriminate forwarding of messages, forwarding messages without deleting early text histories, or continuing discussion from a prior meeting via email are all poor practices that can result in serial meetings. Serial meetings are a violation of the Brown Act. Further, Committee members are subject to FPPC investigation in the event complaints are filed.

One-On-One Meetings; Ex Parte Communications

Committee members may meet with constituents individually, in small groups or other informal settings. When the Committee acts on an issue in a quasi-judicial capacity, the member shall report on any such ex parte communications at the beginning of deliberations related to the subject of the decision. Information learned in these separate meetings must be divulged into the hearing record or must be excluded from the basis for considering any quasi-judicial decision.

Noticing and Venue

Noticing

All Committee meetings shall comply with the Brown Act; Committees shall also follow the noticing protocol set for the City Council in PGMC Chapter 2.04 and Policy 000-9.

Agenda packets for regular and special meetings shall be provided:

- at the Library;
- the outdoor display cabinet at City Hall on Laurel Avenue (agenda only);
- on the City’s website calendar; and
- on the Committee webpage.

In addition, if the meeting is held somewhere other than at City Hall, the agenda shall be posted at that facility, in a location accessible by the public.

If a Committee member cannot attend the meeting but wishes to participate via phone from a public location, the member may do so. However, the location must be stated on the agenda, and noticing regulations apply to the additional location. Members may not call in from anywhere other than a fixed location, as published on the agenda. Whenever phone participation is allowed, all voting must be by roll call.

The agenda packet shall be posted a minimum of 72 hours prior to regularly scheduled meetings. It shall include the agenda and agenda items, or reports, in terms adequate to advise the public of the business to be considered. Agenda reports generally include:

- Subject – Description of action;
- Report presenter;
- CEQA analysis;
- Recommended action; and
- Discussion of the topic including background information, justification of the recommended action and financial impact.

Agenda report examples may be found in City Council Meeting agenda packets.

Unspecified topics such as “miscellaneous” or “new business” are not permissible. New topics raised during public comment, or by any Committee member announcement shall not be discussed at that meeting but may be placed on a future agenda.

Special meeting agendas shall be posted a minimum of 24 hours prior to the meeting.

Meeting cancellations or meeting continuances shall be posted.

Agenda materials shall be available to the public in attendance at meetings.

Venue

Whenever possible, Committees shall meet in Council Chambers. Any meeting venue must be open to the public and must meet Americans with Disabilities Act standards.

Quorum

There is no meeting of the Committee unless a quorum of the Committee is present. If less than a quorum attends, any discussion by that group is characterized as “A Committee of the Whole”, but no record is made of this occurrence, and no decisions can be made.

A quorum consists of a majority of the Committee’s members. For example, on a 6 or 7-member Committee, the quorum is 4. A vacancy reduces the number of voting member positions (See PGMC §§ 3.02.070, 3.04.080). For example, if a 7-member Committee has 2 vacancies, it has 5 voting member positions and the quorum is 3. However, absence, conflict of interest and disqualification do not impact the number of voting member positions. If 2 members of a 7-member Committee are disqualified, the number of voting members remains 7, and quorum is 4.

Agenda

Establishing the agenda is the Chair's responsibility with input from staff and other Committee members. Any item within the Committee's purview may be placed on a future agenda when requested by a Committee member through the Chair. The member shall be responsible for preparing the agenda report or may obtain permission from the City Manager or Department Head to direct staff to prepare the report. Additionally, the City Council may place an item on a Committee's agenda.

The recommended order of agenda is set forth in Council Policy 000-17 Order of Agenda for Council Meetings, making exceptions where appropriate for Committees.

Parliamentary Rules

Committees shall be guided by Robert's Rules of Order.

- *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 or amplification 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, "I 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.
- *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.

Rules of Testimony

No person or member shall address the Committee without permission of the Chair. (See Council Policy 000-9.) All comments shall be addressed to the Committee as a whole and shall not be addressed to members of the public or staff. All questions shall be placed through the Chair.

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 numerous members of the public wish to speak, and it is known that all represent the same opinion, a spokesperson should be encouraged to speak for the entire group. The Chair may elect to provide the spokesperson ten minutes, if it appears time will allow.

The Chair may limit public speakers to three minutes (or less if many speakers are present).

In quasi-judicial hearings, an applicant and designated opponent are generally allowed a total of ten minutes and may reserve an opportunity to use some of that time to rebut at the end of public comment.

Consideration and Action on an Agenda Item

The agenda constitutes the Committee's road map for the meeting. Most agenda items can be handled with the following 4-step process.

1. Presenting Item
 - a. Opening Item - The Chair should announce the agenda item number and subject. The Chair should then announce any special procedures to be followed (e.g., if the item is a public hearing). This is also when members would announce their conflict of interest, if any exists, recuse themselves, and leave the room.
 - b. Hearing the Report - The Chair should invite the appropriate people to report on the item. Verbal presentations should be short, so as to not repeat basic information included in the agenda packet. The Chair may provide an opportunity for members to ask any clarifying questions of the person providing the report. This is not preferred as questioning tends to segue into position statements before public input is taken, which is inconsistent with open meeting principles.
2. Asking for Public Input - The Chair opens the meeting to public input. The Chair may limit speakers time, as described above.
3. Considering the Item—The Chair requests Committee deliberation. Member deliberation would include: questions of the person(s) making the report or others with relevant knowledge, alternatives to the recommendation, additional considerations not previously stated, additional relevant facts and opinions. Time committed to deliberation should be adequate to allow the sense of the Committee to emerge.
4. Deciding – The Committee decides by a motion and voting. (See Appendix E Motions and Appendix F Voting.)

For all action items, the Chair should invite a motion from the members. When a motion is made, the Chair should ask for a second. Once a motion is made and seconded, the Chair should allow any additional desired discussion. Questions for clarification of the motion should be heard at this time.

The Chair shall ask for the vote and publicly report any action taken and the vote or abstention on that action of each member present e.g., the motion passes 4 – 2 - 1, with Committee members A and B dissenting, and C abstaining.

Meetings versus Hearings

A public meeting is generally defined as a meeting in which business is conducted by a public body. This may or may not include participation by the public. A public hearing is a special type of public meeting for the purpose of the governing body accepting public comment and testimony on local legislation or a quasi-judicial matter.

For public hearings, there are a few additional guidelines. (See Council Policy 000-9) After receiving the staff report, the Chair opens the public hearing and accepts testimony in the following order:

1. The applicant or proponent shall be allocated a maximum of 10 minutes to speak.
2. Opponent shall be allocated a maximum of 10 minutes to respond.
3. Very brief rebuttal and surrebuttal may be allowed, at the sole discretion of the Committee.
4. Public input on the matter, and depending on time available and number of speakers, limited to three minutes each or less

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.

Courtesy and Decorum

Speakers should first be recognized by the Chair. This ensures that only one person speaks at a time.

Meetings should take place in an environment where members and the public can freely express their views. The Chair should ensure that discussion focus on the item in question, not on personalities of members or the public. The Chair must protect the record, protect privacy rights for all participants, and is responsible for maintaining a harassment-free environment.

The Chair has the right to cut off discussion that is personal or too emotional. The Chair may request a break in such instance.

Discipline

The Committee Chair should enforce Committee rules.

If any person, including Committee members, staff or members of the public violate rules of process or decorum, any member may raise 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.

There may be times, however, when even the most experienced and effective Chair cannot prevent the meeting from getting out of hand, due to the actions of one or more individuals. In such situations, the following steps should be followed:

First Occurrence - Chair: States required standard of decorum, asks offending person(s) to adhere to the standard at all times, and ensures a positive response. If the person(s) do not respond positively, states that this is the standard required of all persons present; this is not optional standard.

Second Occurrence (or continuation) - Chair: Reminds offending person(s) that they have been: 1) informed of the required decorum; and 2) asked to adhere. Warns person(s) that, if such behavior continues, the Chair will request the Council Liaison/Staff/Vice-Chair to take all appropriate actions, including calling the Police (9-1-1).

Third Occurrence (or continuation):

A. If presence of individual(s) alone is not disruptive. Council Liaison/Staff/Vice-Chair: Informs offending person(s) that they may remain in the chambers only if they do not speak or otherwise act. Any overt conduct will result in their removal by Police. The individual must acknowledge and agree to this requirement. If there is no agreement, proceed to B, below.

B. If continued presence of individual(s) is disruptive. Council Liaison/Staff/Vice-Chair addresses individual: Sir/Madam - You have a right to express your beliefs, but your actions and conduct are substantially and unlawfully interfering with this public meeting. You have been warned [two] times by this Chair. You have been asked to stop. You are warned that the Police will be contacted if you continue your actions.

I must inform you that willful disturbance of this meeting is a basis for criminal prosecution under Penal Code § 403. I must further inform you that threats or intimidation that willfully hinders this assembly is a basis for criminal prosecution under Elections Code § 18340.

Option A (allowed to stay). Your continued presence in this chamber will be disruptive if you make sounds or demonstrate other behavior. Do you agree to cease and desist making any and all disruptive sounds or behaviors during this meeting?

Yes or No? *[Please state your name for the record.]*

Any conduct or action by you other than observing these proceedings shall result in your removal.

Option B (immediate expulsion). Your continued presence in this chamber is disruptive and you must leave immediately. If you do not leave, this meeting will be temporarily disrupted and adjourned. Your presence constitutes a continuing threat. Your decision to remain in this chamber is an act of intimidation. It will hinder this assembly.

For these reasons, I am now required to request law enforcement intervention.

Chair: Calls 10-minute recess

Note: if, at any point in this process, any Committee member (or staff or Council liaison) is concerned about personal safety of himself or any other member, they should state a prearranged key word or phrase, all members should immediately arise and leave the room, and someone should call 9-1-1.

Public Records

Materials provided to Committee members at a public meeting must be made available for inspection and copying by the public. Exemptions from disclosure apply, but are narrowly applied (attorney/client, drafts, pending litigation, personnel files).

Members should avoid the use of personal devices during meetings as such communications may be subject to the Public Records Act.

Committee meetings shall be recorded. Current practice is to record via audio media, however, video recordings may also be taken. Recordings shall be kept by staff or designee. The recording and minutes are retained in accord with the City Records Retention Schedule, Council Policy 000-19.

Minutes are ordinarily limited to a report of actions taken at the meeting. For example, such “action minutes” typically include 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 included in the next agenda packet for acceptance by the Committee. Authorized minutes are signed by the Chair and shall be filed with the City Clerk for inclusion in the packet of the next City Council meeting.

Adjournment

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

7. Actions taken by Committees

Committees may perform an action in different ways. Most commonly, formal action is taken by establishing a quorum, consideration of a motion and voting. Most actions require a vote by a majority of the body.

Informal actions

Informal actions (i.e. no vote required) generally take the form of the Chair giving direction after input from other Committee members. Informal actions would include suggesting to or requesting information from staff. Another example is suggesting that a Committee member report on a future agenda topic.

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.

See Appendix A - Motions.

Voting

See Appendix B - Voting.

Deciding to Move on

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

- The Committee 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 Committee.

In addition, a Committee that has been delegated authority to act on submitted applications (e.g., ARB, HRC, 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 Committee requests that the application be revised.

When Action Is Necessary

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) due to deadlines imposed by the Permit Streamlining Act and the Federal Communications Commission. There are three primary options here:

1. *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 ordinarily is undertaken with concurrence of the applicant, but concurrence is not required.

2. *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).

3. *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 Committee 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 Committee). This option is in addition to the provisions exclusively for the Planning Commission detailed in PGMC Section 23.70.080.

Appeals and Call-Ups

The decisions of certain Committees may be appealed or called up as set forth in PGMC Chapter 23.74 and Table 23.70.012-1. For example, decisions of the Site Plan Review Committee and the Architectural Review Board may be appealed to the Planning Commission. Decisions of the Architectural Review Board and the Planning Commission may be appealed to Council. Similarly, the Council may call up for review any decision of the Planning Commission or any other review authority and make its own decision on the action or matter. The Architectural Review Board and Planning Commission also have the authority to call up certain actions of review bodies over which they have appeal authority. Call-ups require a vote of three members of the body. See Table 23.70.012-1 for more details as to the review authorities.

8. Compliance with Federal, State and Municipal Laws

Committee members are representatives of the City and have a duty to represent the City to the best of their ability, and to take those actions that the member believes are for the benefit of the City as a whole.

Members are expected to comply with all applicable federal, state and municipal laws as applied to their Committee responsibilities.

Committee members have the following ethical duties

- **Duty of Loyalty:**
Committee members have an absolute obligation to put the public's interest before their own direct or indirect personal interests. Members breach this obligation when they benefit at the public expense. Prohibited benefits can be financial (such as participating in decisions that favorably impact a member's business, property, or investments), career-related (such as using public office and/or public resources to obtain future employment or political position), or personal such as benefits to family members or close associates.
- **Duty of Due Diligence**
The duty of care requires that the Committee member competently and faithfully execute the duties of the office. Examples of breach of this duty include failure to attend meetings, failure to investigate, failure to engage in the deliberative process, and failure to vote.
- **Duty to Avoid Bias**
Committee members have a duty to represent all of their constituents fairly. This means that they must overcome any inherent bias that they possess.

Each member shall complete the required AB 1234 ethics training and sexual harassment prevention training at least biannually and notify the City Clerk upon completion.

Each member shall file with the City Clerk on a timely basis all appropriate Fair Political Practices Commission (FPPC) reports. The City's Conflict of Interest Code can be found at PGMC Chapter 2.40.

Committee members are also expected to participate in additional trainings offered by the City in the Brown Act, Parliamentary Procedure, Ethics Laws, CEQA, and the Public Records Act. The City Attorney and/or City Clerk can provide additional information on these topics.

9. Reference Materials

Committees perform best when Committee members are knowledgeable in their area of responsibility. Thus, members are encouraged to become familiar with pertinent materials, which may be found on the Committees' webpage and departmental webpages.

Specific examples are listed below.

- Planning Commission – General Plan, PGMC, Local Coastal Plan, Housing Element
- Library Board - City Council Policy 200-6 'Library Policies'
- Museum Board – Pacific Grove Museum of Natural History Operating and Lease Agreement
- Recreation Board – City Council Policy 900-1 'Special Events', City Council Policy 200-3 'Municipal Tennis Program', City Council Policy 100-8 'Municipal Softball Park Rules, Regulations & Improvements'
- Architectural Review Board – General Plan, PGMC Titles 12, 23, 24, Architectural Review Guidelines for Single-Family Residences
- Beautification and Natural Resources Commission – Urban Forestry Standards (2012), Landscape Guidelines and Plant Palette (2016), Urban Greening Plan (2016), City Council Policy 900-3 'Acceptance of Art Donations'
- Golf Links Advisory Commission – Pacific Grove Golf Links Lease
- Historic Resources Committee – General Plan, PGMC Chapters 23.70.070 and 23.76, City of Pacific Grove Historic Context Statement, The Secretary of the Interior's Standards for the Treatment of Historic Properties, Historic Resources Inventory.

Appendix A – Motions

The Chair usually initiates a motion by:

1. Inviting a member to make a motion: “A motion at this time would be in order;”
2. Suggesting a motion: “A motion would be in order that we approve and forward to the Council the annual report, as drafted;” or
3. Making the motion.

Once recognized, a member makes a motion by preceding the member’s desired approach with the words: “I move ...”. A typical motion might be: “I move that we accept the staff recommendation that...”

Often, a member will prefer a variant of the motion on the floor. They can ask the maker and seconder if they are willing to reword their motion. If they agree, the motion is so amended.

If one or both is not amenable to the suggested rewording, a member may propose an amendment or wait until after the vote on the original motion and propose a different motion. Up to three principle motions—the basic motion and two amendments— may be considered at one time:

1. **The basic motion.** The basic motion proposes a decision for consideration. A basic motion might be: “I move that we create a two-member Committee to study this matter in depth.”
2. **The motion to amend.** A motion to amend proposes to change the basic motion under discussion. A motion to amend might be: “I move that the Committee focus on just two primary options.”
3. **The motion to amend an amendment.** A motion to amend an amendment proposes a further change to the motions under discussion. A motion to amend the amendment might be: “I move that one of the options for the Committee to analyze be to prohibit murals on wood-sided buildings.”

No further motion to address the substance of the matter is in order. (Incidental or privileges motions, which deal with procedural issues, may still be raised.) Each motion is subject to deliberation. A motion to amend or to amend an amendment is at times labeled a “substitute motion.” Whether considered as an amendment or a substitute, such motions are handled the same.

When Multiple Motions Are before the Committee

When two or three substantive motions are on the floor (with each having been seconded) at the same time, the *first* vote resolves the *last* motion made. If the amendments deal with alternative approaches to the same question, and a majority votes to approve the third motion, the remaining motions are then moot, and action on the agenda item would be complete. If the third motion *fails*, the Chair then proceeds to consider the second motion.

If an amendment deals with a different aspect of the same matter, then the motions would be considered in turn, in reverse order (second amendment, first amendment, and original motion).

In action minutes, only the final motion or action is recorded.

Limits to Deliberation

While the basic rule of motions is that they are subject to discussion and debate, some exceptions limit debate on a motion. Examples of motions that are *not* debatable include:

- **A motion to adjourn.** This motion, if passed by simple majority, requires the body to immediately adjourn to its next regularly scheduled meeting.
- **A motion to recess.** This motion, if passed by simple majority, requires the body to immediately take a recess for the time set by the Chair.
- **A motion to fix the time to adjourn.** This motion, if passed by simple majority, requires the body to adjourn the meeting at the specific time set in the motion.
- **A motion to table.** This motion, if passed by simple majority, places the matter on “hold” and ends discussion of the item. The motion may state a specific time when the item shall return on the agenda, but it need not.

When these, or other incidental or privileged motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion.

Most motions require a simple majority; but a few exceptions apply when the body limits a minority from acting on or discussing an item. These motions require a two thirds majority to pass:

- **End debate.** Members can end debate by “moving the previous question.”
- **Motion to close nominations.** A motion to close nominations limits the right of a minority to nominate officers.
- **Motion to suspend rules.** This motion is debatable but requires a two-thirds vote to pass.

Division of a Motion

If a motion contains two or more divisible propositions, each of which is capable of standing as a complete proposition, the Chair may, and upon request of a member shall, divide the same. The Chair’s determination shall be appealable by any member. For example, a motion to approve a project and waive applicant fees is divisible into two separate motions.

Withdrawal of a Motion

A motion may be withdrawn by the maker at any time prior to the vote, without the consent of the member seconding it. Any other member may choose to make the same motion.

Motion to Continue

The Committee may vote to continue items to a subsequent meeting for the following reasons:

- The Committee requires additional information during the meeting;
- New information or issues come to light during the meeting that need further study; or
- Other reasons the Committee deems “appropriate and substantial.”

A motion to continue requires a majority vote for approval. This is also known as a motion to postpone and is amendable.

The Committee may continue a submitted application 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; or
- The Commission requests that the application be revised.

- Continuances ordinarily are undertaken with concurrence of the applicant, but concurrence is not required.

Motion to Reconsider

A motion to reconsider a vote is a motion limited in both the time it can be made and the person who can make it. A motion to reconsider an action taken by the Committee may be made on the same day as the meeting in which the motion to be reconsidered was decided, or the next business day if the session is more than one day. The motion must be made by a member who voted on the prevailing side but may be seconded by any member. For example, a person voting in the majority of a 4-3 vote for a motion to approve or deny an item (prevailing side) may make a motion to reconsider. If there is tie vote (3-3 and 1 absence), or if the motion fails (3 in favor, 2 against, 2 absent), then a motion to reconsider is not available as it only applies to actions taken by the Committee.

A motion to reconsider requires a second, is debatable, and is not amendable. If the motion to reconsider fails, it may not itself be reconsidered. Reconsideration may not be moved more than once on the same motion. If the motion to reconsider passes, the original matter is back before the Committee. The matter may be discussed, debated, and amended as if it were on the floor for the first time.

No member is prevented from making a motion to rescind such *action* at a subsequent meeting of the Committee, provided the agenda for that meeting includes the proposed action to rescind. More often than not such motions are used to make policy changes. The motion must be seconded, is debatable, and requires a majority vote.

Appendix B– Voting

Majority Voting Requirement

The Code requires the affirmative vote of a majority of the total members of the Committee (excluding any non-voting members), on any item, for any action by the Committee, unless otherwise provided.¹ (See PGMC §§ 3.02.070 and 3.04.080). For example, the majority of a fully-constituted Committee is 4. In a 7-member body, a vote of 4-3 passes the motion. If there are 2 vacancies, and the total members are 5, then a majority is 3 members. Therefore, unless a super-majority is required, a simple majority vote determines whether each motion passes or is defeated. Silence constitutes an affirmative vote. Proxy votes for absent members are not allowed.

Tie Votes

A tie vote means the motion fails. If one member is absent and the vote is 3-3, the motion fails. Tie votes may be reconsidered on motion by any member of the Committee voting aye or nay during the original vote. Before a motion is made on the next item on the agenda, any member of the Committee 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 Committee is required by law.

Disqualification from Voting; Recusal

Commission members shall disqualify themselves from deliberation and voting on any matter before the Commission, prior to the Commission's consideration of the matter, when there is a conflict of interest. A member may also choose not to participate due to personal bias or the appearance of impropriety. Upon the Chair's announcement of an item, members must state that they are disqualifying themselves due to a conflict of interest, state the nature of the conflict (e.g., financial), and leave the room until the completion of that item.

If the number of members recusing themselves due to a conflict of interest disrupts 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. For example, if 4 out of 7 Committee members are conflicted, the Committee may select one of the conflicted members to vote so as to have a quorum.

Abstentions

Abstentions are discouraged. Members should abstain from voting only due to lack of participation in an evidentiary proceeding before the Committee and their inability to review the record. In that instance, members 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 them. 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. For example, on a 7-member Committee, if the vote is 3 in favor, 2 against, with 1 absence and 1 abstention, the motion is approved, since a quorum was present, and a majority of the total

¹ In certain circumstances, supermajority votes (majority + 1) are required: certain actions of Council, e.g., an urgency ordinance; zoning amendments by the Planning Commission.

membership is judged to have voted in favor. A 3-3 vote with one abstention means the motion fails as there is no majority.

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.

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.

Recording of Votes. The results of the vote shall be announced immediately following the action as shown in the following example: "The motion passed 5-2, Brown and Smith voting no." The minutes of the Committee's proceedings shall show the vote of each member, including whether they were absent or failed to vote on a matter considered. For example,

Ayes:

Noes:

Absent:

Abstain:

Members may change their votes up to the time the vote is finally announced. After that, members may only change with permission of the Committee, which may be given by general consent; that is, by no member's objecting when the Chair inquires if any one objects. If an objection is made, a motion may be made to grant the permission, which is debatable.