

OFFICE OF THE CITY ATTORNEY
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RESOLUTION NO. R-1155

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF LONG BEACH AMENDING AND
RESTATING THE RULES AND PROCEDURES FOR THE
PLANNING COMMISSION

WHEREAS, on July 5, 1996, the Planning Commission adopted Rules and
Regulations for the Planning Commission by Resolution No. R-1104; and

WHEREAS, the Planning Commission now intends to amend the Rules and
Procedures regarding time of meetings, cancelation or rescheduling of meetings, and staff
recommendations different than the Planning Commission recommendation,

NOW, THEREFORE, the Planning Commission of the City of Long Beach
resolves as follows:

Section 1. The Planning Commission of the City of Long Beach hereby
adopts the following Rules and Procedures:

RULES AND PROCEDURES FOR THE PLANNING COMMISSION

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RULES AND PROCEDURES FOR THE PLANNING COMMISSION

ARTICLE 1

PURPOSE

1.1. The Planning Commission of the City of Long Beach ("Planning Commission" or "Commission") is established by the Long Beach City Charter.

1.2. It is the responsibility of the Planning Commission to advise the City Council on all matters affecting the development and redevelopment of the City and to perform such other related functions as may be authorized by the City Council. All actions of the Planning Commission shall be advisory only, except for those matters where final authority has been assigned to the Planning Commission by charter or action of the City Council.

1.3. In order to effectively and efficiently perform its duties as assigned by the City Charter and the City Council, the Planning Commission desires to specify procedure rules to govern the conduct of its meetings and hearings.

1.4. The following procedural rules shall, consistent with the State Constitution, applicable statutes, including the Brown Act, the City Charter and City ordinances, and resolution govern the conduct of all business before the Planning Commission.

ARTICLE 2

MEMBERS

2.1 The Planning Commission consists of seven regular members appointed by the Mayor and subject to confirmation by the City Council. The chairman and the vice Chairman shall be elected by a majority of the Planning Commission. The term of each Commissioner shall be four (4) years. No person shall serve more than two (2) full terms.

2.2 The Chairman shall preside at all meetings and hearings of the Planning Commission and shall have the duties normally conferred on such an officer. Consistent with these rules and procedures, the Chairman shall have the privilege of discussing all matters before the Planning Commission and to vote thereon.

2 2.4. In the absence of both the Chairman and Vice Chairman, the members
3 present at such meeting may elect a chairman pro tem who shall serve only for the
4 duration of the meeting in which he or she is appointed and shall have all powers of the
5 Chairman for that particular meeting.

6 2.5 The Director of Development Services ("Director") shall be responsible for
7 keeping minutes of the Planning Commission proceedings and transactions, preparing
8 the agenda of the regular and special meetings, arranging proper and legal notice of the
9 hearings, attending to correspondence, and performing such other duties for the Planning
10 Commission as are normally carried by a secretary to a legislative body. Where this
11 resolution refers to duties of the Director, the Director may delegate such duties as he or
12 she deems appropriate.

13 ARTICLE 3
14 COMMISSION ACCESS TO STAFF

15 3.1 Commission or Commissioner requests for assistance or research by staff,
16 other than simple requests for information or clarification, shall require the consent and
17 approval of the Director.

18 ARTICLE 4
19 ELECTION OF OFFICERS

20 4.1 The Chairman and Vice Chairman shall be elected by and from the
21 members of the Planning Commission. Election of the Chairman and Vice Chairman
22 shall be held at the second meeting of September each year. The newly elected officers
23 shall assume their offices in the first regular meeting of October.

24 4.2 The terms of office for Chairman and Vice Chairman shall be for one (1)
25 year, and thereafter until their respective successors are elected and qualified.

26 4.3 Vacancies in offices shall be filled immediately by regular election
27 procedure, but for the unexpired term only.

ARTICLE 5

QUORUM

5.1 A simple majority of members of the Commission currently in office shall constitute a quorum to conduct business. Except as otherwise required by law, the vote of a simple majority of a quorum of the Commission shall determine the act or decision.

5.2 In the event of the lack of a quorum at a meeting, the Chairman or Vice Chairman, or Chairman pro tem, in that order, shall adjourn the meeting to another time, place, and date. Such order of adjournment shall serve as sufficient notice thereof to all members not present, it shall be the duty of the Director to employ such reasonable means as may be necessary to notify the absent members. The Director may adjourn a meeting where no Commissioners are present, provided that if the meeting is adjourned to a time other than the next regular meeting, notice of the meeting shall be given as if the meeting were a special meeting.

ARTICLE 6

MEETINGS

6.1 Regular Meetings. Regular meetings of the Planning Commission shall be held on the first and third Thursdays of each month. If the regular meeting dates falls on a City holiday, then the meeting may be rescheduled by the Planning Commission.

6.1.1 All regular meetings of the Planning Commission will be called to order at 5:00 p.m., unless properly noticed otherwise, canceled, or rescheduled. No Planning Commission meeting shall be canceled or rescheduled unless the Director of Development Services or designee first confers with the Chairman regarding the rationale for canceling or rescheduling.

6.1.2 The Commission shall endeavor to adjourn its meetings not later than 9:30 p.m. If necessary, business not completed by 9:30 p.m. will be continued to the next regular or special meeting as determined by the Planning Commission.

6.2 Meeting Breaks. The Chairman shall, with the concurrence of the Commission, recess the meetings as necessary to grant relief to the Commissioners,

6.3 Emergency or Special Meetings. An Emergency or Special Meeting may be called at any time by the Chairman of the Planning Commission, or by a majority of its membership, on its own motion or at the direction of the City Council. The call, notice and conduct of such emergency or special meeting shall comply with the Ralph M. Brown Act, Government Code section 54950, *et seq.*

6.4 Study Sessions. The Planning Commission may hold study sessions as part of a regular, adjourned or special meeting. No action may be taken by the Commission at such a study session. When a matter is set for a study session, public testimony may be barred or limited to particular persons at the discretion of the Chairman, with the concurrence of a simple majority of the Commission.

6.4.1 If necessary, a study session may be conducted with less than a quorum of the Commission present.

6.5 Open and Closed Sessions. All meetings of the Planning Commission shall be open and public. All persons are welcome to attend. The Planning Commission may, upon the advice of the City Attorney and pursuant to the Ralph M. Brown Act, Government Code Section 5490, *et seq.*, hold a closed session during a regular or special meeting.

ARTICLE 7

PARLIAMENTARY PROCEDURE

7.1 Robert's Rules of Order shall govern in the conduct of Commission meetings in all cases to which they are applicable and in which they are not inconsistent with these Rules and Procedures or any other applicable statutes, ordinances, resolutions or regulations of the City.

7.2 If properly agendized, the Rules and Procedures may be amended at any regular or special meeting of the Commission by an affirmative simple majority vote of a Commission quorum.

7.3 The Planning Commission may suspend any of these Rules and

1 Procedures for the duration of the meeting or for a particular item only by an affirmative
2 simple majority vote of a Commission quorum.

3 ARTICLE 8

4 AGENDA

5 8.1 A written agenda shall be prepared for each meeting of the Planning
6 Commission.

7 8.2 The agenda must contain a brief general description of each item of
8 business to be discussed at the meeting.

9 8.3 The agenda shall be posted as required by law and made available at the
10 office of the Zoning Administrator.

11 8.4 The Planning Commission may not take action on an item not appearing on
12 the posted agenda unless an exception is made as permitted under applicable law.

13 8.5 The Chairman, in his/her discretion, and with the consent of the Planning
14 Commission, or upon the request of any Commissioner, may rearrange the order of the
15 presentation of any items appearing on the agenda. No person should rely upon the
16 order in which public hearing items appear on the posted agenda.

17 8.6 Any public hearing on any agenda item may commence upon the opening
18 of the meeting.

19 8.7 No written documentation submitted to the Planning Commission after 4:30
20 p.m. on the scheduled meeting date shall be considered. The reason for this rule is to
21 allow complete consideration of the documentation and to avoid unnecessary distractions
22 once the meeting is called to order.

23 8.8 Staff Reports. Staff reports shall be prepared with recommendations and
24 the basis for those recommendations. To the extent possible, alternate positions and
25 their justifications should be included as well. Staff reports are included in the hearing
26 record. Reports shall be in writing and shall be provided to the project applicant at least
27 three (3) days before any hearing or action by the City Planning Commission.

28 8.9 Agenda Packets. Staff shall endeavor to provide the entire agenda packet

1 to each member of the Planning Commission no later than five (5) days prior to the
2 regularly scheduled meeting.

3 ARTICLE 9

4 ORDER OF BUSINESS

5 9.1 Agenda Items. Agendas for regular meetings shall be organized in
6 substantially the following order:

- 7 a. Call to Order
- 8 b. Roll Call
- 9 c. Pledge of Allegiance
- 10 d. Review and approval of Minutes
- 11 e. Chairman Addresses Audience (Outlines Meeting Procedure)
- 12 f. Swearing In of Witnesses
- 13 g. Consent Calendar
- 14 h. Carryover Items
- 15 i. Regular calendar
- 16 j. Matters from the Audience
- 17 k. Matters from the Department of Development Services
 - 18 1. Update on City Council actions
 - 19 2. Preview of future agendas
 - 20 3. Other
- 21 l. Matters from the Planning Commission
- 22 m. Adjourn.

23 ARTICLE 10

24 HEARINGS

25 10.1 In order to expedite the hearings on any petition, application or appeal, the
26 Secretary at the time of filing of the petition, application or appeal, shall cause notice
27 thereof to be given as required by the applicable law. Unless otherwise noticed, all
28 hearings shall be set for 5:00 p.m.

1 10.2 Unless the Chairman in his or her discretion should direct otherwise, the
2 order for presentation during a public hearing should be as follows:

- 3 a. Public hearing is opened.
- 4 b. Presentation of Development Services Department staff report,
5 including any environmental analysis, with recommendations for Planning Commission
6 action.
- 7 c. Questions of staff by members of the Planning Commission.
- 8 d. Presentations from the applicant or appellant.
- 9 e. Presentations of persons in favor of or in opposition to the requested
10 action.
- 11 f. Rebuttal comments by the applicant or appellant.
- 12 g. Closing remarks by staff.
- 13 h. Public hearing is closed. The Chairman declares the public hearing
14 closed when members of the Planning Commission indicate they have heard all pertinent
15 testimony. After the public hearing is closed, no additional substantive testimony may be
16 given. However, the Commission may clarify information which has been received into
17 the public records by directing questions to its staff or the public, provided that such
18 clarifications are made at the same meeting and prior to or during deliberation on the
19 subject matter.
- 20 i. Planning Commission discussion.
- 21 j. Chairman may entertain a motion on the item. A proper motion is
22 presented.
- 23 k. Motion is to be seconded or shall fail for lack of second prior to
24 Commission debate.
- 25 l. Commission debate on the motion, if seconded.
- 26 m. Once debate is concluded, Commission votes pursuant to Rules and
27 Procedures.

28 10.3 If necessary to permit additional testimony and evidence, public hearings

1 may be re-opened during Commission deliberation at the meeting in which the public
2 hearing was held. such re-opening requires a majority consent of the Commission.

3 10.4 Swearing In of Participants. Members of the Planning staff and audience
4 who plan to testify will be asked to stand and raise their right are to "Swear In."

5 10.5 Evidence, Time Limits, Numbers of Speakers.

6 10.5.1 Formal Rules of Evidence. Formal rules of evidence need not be
7 followed. Any relevant evidence may be considered. The Chairman may exclude
8 irrelevant or redundant testimony and may make such other rulings as may be necessary
9 for the orderly conduct of the proceedings while ensuring basic fairness and full
10 consideration of the issues involved. Evidentiary objections shall be deemed waived
11 unless made in a timely fashion before the Planning Commission.

12 10.5.2 Burden of Proof. The burden of proof of all legal prerequisites to
13 the granting of relief or action sought shall be upon the party requesting such relief or
14 action.

15 10.5.3 Name and Address. Any person desiring to speak must first be
16 recognized by the Chairman. All comments must be made clearly and audibly. all
17 speakers must first state their full names and addresses and the names and addresses of
18 any person in whose behalf they are appearing.

19 10.5.4 Time Limits. Applicants and appellants shall be given sufficient
20 time, in the reasonable judgment of the Chairman, to present their concerns. All other
21 speakers normally will be limited to a three (3) minute presentation.

22 10.5.5 Number of Speakers. the Chairman, with the concurrence of a
23 Planning Commission majority, may limit the number of speakers or amount of testimony
24 time upon a particular issue in order to avoid repetitious and cumulative comments, and
25 to hear those interested in testifying. Except when necessary for immediate clarification
26 of a particular point, no person shall be allowed to speak a second time until all others
27 wishing to speak have had an opportunity to do so, and then only at the discretion of the
28 Chairman and the concurrence of the Commission.

1 10.6 Questions Through the Chair. Any person other than a Commission
2 member desiring to direct a question to a speaker or staff member shall submit the
3 question to the Chairman, who shall determine whether the question is relevant to the
4 subject of the hearing and whether or not it should be answered by the speaker of the
5 hearing and whether or not it should be answered by the speaker or staff member.

6 10.7 After the Commission meeting is opened, members of the audience will not
7 be permitted behind the rail.

8 10.8 Unruly or Disruptive Member of Audience. The Chairman has the
9 responsibility to maintain a lawful, controlled, orderly, respectful and dignified meeting.
10 To assure these conditions, the Chairman may take whatever lawful actions he or she
11 deems necessary up to and including adjournment of the meeting.

12 10.9 Evidence Received Outside a Hearing. The Chairman does not encourage
13 the receipt of information or evidence on a particular pending matter outside of hearings.
14 If a member of the Commission talks with an applicant or visits a site independently, or
15 receives any other information pertinent to a pending matter, he or she shall disclose the
16 contact and information or evidence so received during the hearing on the matter. the
17 applicant or appellant shall have the opportunity to supplement or rebut the information or
18 evidence so disclosed, and failure to do so shall be deemed a waiver of any objection
19 regarding the information or evidence.

20 10.9.1 The Commission is not encouraged to visit locations or talk with
21 individuals outside of the Planning Commission meeting to assure that everyone hears
22 and receives the same information from the same source at the same time.

23 10.9.2 It is recommended that members of the Commission perform no
24 more than a "Field Check" (i.e., drive by without getting out of the car or talking with
25 anyone). This action should also be reported when the item comes before the
26 Commission.

27 10.10 Appearance of a Commission before the Planning Commission. After a
28 Commissioner has disqualified him or herself as a result of a potential conflict of interest,

1 he or she may appear before the Commission during hearing on the matter and present
2 testimony regarding the matter, provided it is done with the advice of the City Attorney's
3 office.

4 10.11 Motions.

5 10.11.1 Motion-Second. Action upon an order, resolution, ordinance
6 or any other action of the Planning Commission may be proposed by any member of a
7 motion. The Chairman may make a motion only after all other members of the Planning
8 Commission present have had an opportunity to make a motion on the question. Before
9 a motion can be considered or debated it must be seconded at which time it shall be on
10 the floor and must be considered. If not seconded, the motion is lost for lack of a second
11 and shall be so declared by the Chairman. The Chairman may second a motion.

12 10.11.2 Amendment of Motion or Substitute Motion. A motion on the
13 floor may be amended or a substitute motion offered at any time before adoption or
14 rejection of the main motion. When a motion to amend or substitute motion is made and
15 seconded, the Planning Commission will debate and take action on the amendment or
16 substitute before acting on the main motion. If the amendment or substitute is not
17 adopted, the main motion will be considered. If the amendment is adopted, the main
18 motion, as amended, will then be considered. If the substitute is adopted, no further
19 action is necessary.

20 10.11.3 Withdrawal of Motion or Second. A motion may be withdrawn
21 by the maker at any time before adoption or rejection. A second to a motion may be
22 withdrawn by the seconding member at any time before adoption or rejection of the
23 motion. The motion will then be lost for lack of a second and so declared by the
24 Chairman unless seconded by another person.

25 10.11.4 Tabling a Motion. Tabling a motion is not a procedure utilized
26 by the Planning Commission. Motions should be voted upon or continued to a date
27 certain.

28 10.11.5 Discussion, Closure, and Question. After a motion has been

1 seconded, any member, including the Chairman, may discuss or comment on the subject
2 motion. The Chairman shall recognize any and all members of the Planning Commission
3 who desire to speak, beginning with the motion's maker, and will protect each speaker
4 from disturbance or interference. When no member wishes to discuss or comment
5 further, the Chairman will call for a vote on the motion. Any member of the Planning
6 Commission may at any time move to close the debate.

7 10.11.6 Motions for Reconsideration. Motions for reconsideration of a matter
8 may be made by any member who voted with the prevailing majority on the matter to be
9 considered. Any member of the Planning Commission may second a motion to
10 reconsider. Motions to reconsider shall be made at the same meeting as the original
11 motion. If the matter to be reconsidered required a public hearing, the public hearing will
12 be reopened pursuant to these Rules and Procedures before additional evidence is
13 received.

14 10.12 Decision-making.

15 10.12.1 Voting. Approval of any motion before the Planning
16 Commission shall require the affirmative vote of a majority of the members present,
17 unless otherwise specified by law.

18 10.12.2 Tie Votes. Any tie vote shall constitute a denial of the motion
19 and may be reconsidered by a motion offered by any member who voted on the matter.
20 If there is no subsequent affirmative vote, the result is denial. If the matter involves an
21 appeal and an affirmative vote does not occur, the result is that the decision appealed
22 stands as decided by the decision-maker from which the appeal was taken.

23 10.12.3 Abstentions. Except when a conflict exists and abstention is
24 required by state law, every member of the Commission who is present, when a roll call
25 is called, shall vote for or against the question, unless excused by a majority of the
26 Commission members present prior to the calling of the roll on such question.

27 10.12.4 Roll Call. Voting upon a motion may, at the discretion of the
28 Chairman, and shall, upon the request of any member, be by roll call. When voting is not

1 by roll call, the Chairman may, in the absence of objection by any member of the
2 Planning Commission, declare an item to be unanimously approved.

3 10.12.5 Motions Include Staff Recommendations. A motion to adopt
4 or approve staff recommendations or simply to approve the action under consideration
5 shall, unless otherwise particularly specified, be deemed to include adoption of all
6 proposed findings and execution of all additions recommended in both the written staff
7 report on file on the matter and any oral staff report presented during the hearing.

8 10.12.6 Absentees. A Planning commission member who is absent
9 from any portion of a hearing conducted by the Planning Commission may vote on the
10 matter at the time it is acted upon provided that he or she has either reviewed the
11 approved minutes of the hearing or listened to the tape recording of the entire portion of
12 the hearing from which he or she was absent, provided that a tape recording exists, and if
13 he or she has examined the Staff Report and evidence presented during the portion of
14 the hearing from which he or she was absent. In such a case, the Commissioner shall
15 state for the record that he or she is familiar with the record and with the evidence
16 presented at the hearing.

17 10.12.7 In those matters involving a recommendation to the City
18 Council, the recommendation shall be transmitted in a timely manner to the City Council
19 for its consideration. In the event that staff has a recommendation that is different from
20 that of the Planning Commission, the staff recommendation may also be presented to the
21 City Council for its consideration. However, the staff report presented to the City Council
22 shall make clear the precise nature of the Planning Commission recommendation and
23 shall further articulate staff's rationale for providing a different recommendation. Before
24 providing a recommendation to the City Council that is different from that of the Planning
25 Commission, the Director of Development Services or designee shall first inform the
26 Planning Commission Chairperson of the intended course of action. The Chairperson
27 shall have the right to appear at any scheduled meeting of the City Council for the
28 purpose of presenting the Planning Commission's position relative to its recommendation

1 to the City Council.

2 10.13 Findings. On any matter for which state law or City ordinance requires the
3 preparation of written findings, the staff report submitted on the matter will contain
4 findings proposed for adoption by the Planning Commission. Any motion directly or
5 implied rejecting the proposed findings should include a statement of alternative or
6 modified findings or direction that the matter under consideration be continued for a
7 reasonable period of time in order for staff to prepare a new set of proposed findings
8 consistent with the evidence which has been presented and the decision which is
9 anticipated.

10 10.14 Consent Items. Items that require little or no discussion by the Planning
11 Commission may be considered as consent items. The Planning Commission will act on
12 these items in one motion at the beginning of the meeting. Approval by the Planning
13 Commission of consent items means that the staff recommendation was approved along
14 with the findings and conditions set forth in the staff report. Any member of the Planning
15 Commission, the applicant, or members of the public may request that consent items be
16 considered in their regular order on the agenda. Removal of an item from the consent
17 calendar is subject to approval by a majority the Commission members present.

18 10.15. Continuances. Upon a showing of good cause and by request of the
19 applicant, a member of the public, or member of the Planning Commission, the
20 Chairman, at the time set for a hearing on a particular item may order the hearing to be
21 continued to a specified date and time. Upon the request of any member of the Planning
22 Commission, continuance decisions shall be made by a motion and roll call vote of all
23 members present.

24 10.16 Construction. These procedural rules shall be construed and applied so as
25 to ensure a full and fair hearing of relevant evidence which is offered on a land use
26 matter and to facilitate an orderly analysis of evidence and issues by the Planning
27 Commission.
28

ARTICLE 11

COMMISSION AUTHORITY

11.1 Failure of the Commission to follow the procedures established by this Resolution shall not invalidate or otherwise affect any action of the Commission.

11.2 These rules and procedures in no way modify, amend or suspend the Commission's or individual Commissioner's obligations pursuant to the Political Reform Act, Open Meeting Law or other applicable statute of statewide concern. These rules and procedures shall be construed to remain consistent with such statutes, as they may be amended from time to time.

Section 2. The Director shall transmit a copy of this resolution to the City Clerk and to each member of the Planning Commission.

Section 3. This resolution shall take effect immediately upon its adoption by the Planning Commission, and the Planning Commission Secretary shall certify to the vote adopting this resolution.

I hereby certify that the foregoing resolution was adopted by the Planning Commission of the City of Long Beach at its meeting of April 7, 2011, by the following vote:

Ayes: Commissioners: Charles Durnin, Donita Van Horik,
Becky Blair, Leslie Gentile, Melani Smith,
Philip Saumur

Noes: Commissioners: _____

Absent: Commissioners: Alan Fox


Secretary