



# City of Paso Robles Planning Commission Agenda Report

From: Warren Frace, Community Development Director

Subject: Draft Planning Commission Handbook Review and Discussion  
The Planning Commission will review the draft Planning Commission Handbook and provide direction to staff on changes.

Date: January 10, 2017

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### **Facts**

1. The Planning Commission appointed an Ad Hoc Committee to work with staff on the preparation of a Handbook for Commission process, procedures and best practices.
2. The Ad Hoc Committee forwarded a draft Handbook to the Planning Commission for review on 11/8/16 (Attachment 1).

### **Recommendation**

The Planning Commission should discuss the draft Handbook and provide comments to staff for preparation of a final Handbook.

### **Attachments**

1. 11/8/16 Draft Planning Commission Handbook



# Paso Robles Planning Commission Handbook

November 8, 2016

City of El Paso de Robles

1000 Spring Street, Paso Robles, CA 93446

[www.prcity.com](http://www.prcity.com)

*The job of a Planning Commissioner is one of the most important and least understood volunteer positions in the City.*

*Being a Planning Commissioner requires long hours and hard work. There will be difficult meetings with some members of the public unhappy with the Planning Commission's decisions. A Commissioner may wonder if it's all worth it. **IT IS.***

*The Planning Commissioners help set the direction for the City of Paso Robles and make decisions that will improve the community's future. The importance of the Planning Commission is confirmed by the authority given in State law and by local ordinance requiring all land use decisions be reviewed by the Planning Commission.*

*The job of the Planning Commissioner includes the responsibility of balancing individual rights with the public interest. The challenge involves making complicated decisions about long term projects that affect the future of the community for decades to come. The work the Planning Commission undertakes is very important and the community is depending on you to do your best work.*

*As a Planning Commissioner you may have been appointed without any prior training in planning or serving as a member of a public body. Training and education can help Planning Commissioners with their job. **The Paso Robles Planning Commission Handbook** is intended to help Planning Commissioners by providing information on planning and guidance on the conduct of the Planning Commission's activities. This handbook is not a formally adopted City of Paso Robles document, nor does it set forth official City policy. Instead, it is intended to be a practical guide to some of the issues faced by Planning Commissioners.*

*Special thanks to the City of San Mateo whose excellent Planning Commission Handbook served as the basis for this document.*

## Table of Contents

<b>Chapter 1.</b>	<b>Welcome to the Planning Commission .....</b>	<b>5</b>
1.1.	Introduction .....	5
1.2.	What is a Planning Commission? .....	5
1.3.	Planning Commission Duties .....	6
1.4.	Best Practices .....	6
<b>Chapter 2.</b>	<b>Role and Activities of the Planning Commission Introduction .....</b>	<b>8</b>
2.1.	Purpose of the Planning Commission .....	8
2.2.	The Authority of the Planning Commission.....	8
2.3.	Duties of the Planning Commission .....	8
2.4.	Characteristics of the ideal Planning Commission .....	9
2.5.	Planning Commissioner Responsibilities.....	11
2.6.	The Planning Commission’s Relationship City Council.....	13
2.7.	Planning Commission Commissioner Rights.....	13
2.8.	Working with City Staff .....	14
2.9.	Committees.....	15
2.10.	Development Review Committee .....	16
2.11.	Airport Commission .....	16
<b>Chapter 3.</b>	<b>Introduction to Planning.....</b>	<b>17</b>
3.1.	What is Planning?.....	17
3.2.	Why Plan? .....	17
3.3.	A Short History of Planning .....	18
3.4.	Authority for Local Planning in California.....	21
3.5.	What Is a General Plan? .....	21
3.6.	City of Paso Robles General Plan .....	24
3.7.	What Planning Cannot Do .....	26
<b>Chapter 4.</b>	<b>PLAN IMPLEMENTATION.....</b>	<b>27</b>
4.1.	The Importance of Implementation.....	27
4.2.	Zoning Regulations.....	27
4.3.	City of Paso Robles Zoning Ordinance .....	28
4.4.	Authority for Zoning.....	29
4.5.	The History of Legal Basis for Zoning .....	29
4.6.	Subdivision Regulations .....	30
4.7.	City of Paso Robles Subdivision Ordinance.....	30
4.8.	Authority for Subdivisions .....	30
4.9.	Paso Robles Planning Approvals .....	31
4.10.	Other Means of Implementation .....	31
4.11.	California Specific Plan Law.....	32
4.12.	Specific Plans in Paso Robles.....	33
4.13.	Annexations / Sphere of Influence.....	33

<b>Chapter 5.</b>	<b>CEQA - THE CALIFORNIA ENVIRONMENTAL QUALITY ACT .....</b>	<b>34</b>
5.1.	Overview .....	34
5.2.	The CEQA Process .....	34
5.3.	Use of Environmental Documents .....	37
<b>Chapter 6.</b>	<b>PLANNING COMMISSION CONDUCT .....</b>	<b>38</b>
6.1.	The Public Interest .....	38
6.2.	Legal Aspects of Planning Commission Conduct .....	38
6.3.	Ethics Training .....	39
6.4.	Conflict of Interest .....	39
6.5.	Open Meeting Act – Brown Act .....	40
6.6.	Ex Parte Contact .....	42
<b>Chapter 7.</b>	<b>THE PLANNING COMMISSION MEETING .....</b>	<b>44</b>
7.1.	Due Process .....	44
7.2.	Conducting a Planning Commission Meeting .....	44
7.3.	Chairing the Planning Commission .....	45
7.4.	Responsibilities of the Chair .....	45
7.5.	Parliamentary Procedure - Roseburg’s Rule of Order .....	46
7.6.	Qualities of a Good Chair .....	47
7.7.	Making Motions Tips .....	48
7.8.	Practical Tips for the Planning Commissioner .....	48
7.9.	Planning Application Continuance vs. Denial .....	49
<b>Chapter 8.</b>	<b>MAKING A DECISION AND THE NEED FOR FINDINGS .....</b>	<b>51</b>
8.1.	Types of Planning Commission Decisions .....	51
8.2.	The Need for Findings .....	51
8.3.	Legal Adequacy of Findings .....	51
8.4.	Purpose of Findings .....	52
8.5.	Evidence in the Record to Support Findings .....	52
8.6.	Findings in the Staff Report .....	52
8.7.	Denial Findings .....	53
<b>Chapter 9.</b>	<b>CONDITIONS OF APPROVAL .....</b>	<b>54</b>
9.1.	Legal Authority to Impose Conditions of Approval .....	54
9.2.	Timing of Conditions .....	54
9.3.	Who is Responsible for Implementing Conditions? .....	55
9.4.	Mitigation Measures as Conditions .....	55
9.5.	Legal Considerations in Imposing Conditions .....	56
9.6.	Nollan v California Coastal Planning Commission (1987) – “Reasonable Relationship” ...	56
9.7.	Dolan v City of Tigard (1994) – “Rough Proportionality” .....	57
9.8.	Planning Commission Considerations .....	58
<b>Chapter 10.</b>	<b>THE STAFF REPORT .....</b>	<b>59</b>
10.1.	Staff Report Contents .....	59

10.2. Items Not Included as Part of the Staff Report.....62

10.3. More About the Planning Staff Recommendation.....62

**Chapter 11. Sources:.....63**

**Chapter 12. APPENDICES .....64**

12.1. Attachment 1 - Planning Commissions Procedures .....64

12.2. Attachment 2 - Roseburg’s Rules.....67

12.3. Attachment 3 - Planning Commission Bylaws.....68

12.4. Attachment 4 – Planning Acronyms.....69

12.5. Attachment 5 - Paso Robles Municipal Code - Planning Commission.....70

11/8/16 - PC Review Draft

## Chapter 1. Welcome to the Planning Commission

### 1.1. Introduction

Welcome to the City of Paso Robles Planning Commission. You are now part of an important City function that will help chart the course of Paso Robles for years to come.

As a Commissioner you will attend regular meetings, special meetings, committee meetings and workshops. You will be asked to evaluate projects and proposals, and make tough decisions about community development projects and the interpretation of City policies. As new terms and concepts are encountered, and more knowledge is gained about development activities happening around town, a greater understanding about government and public decision-making begins to develop.

A good Planning Commission must take the future seriously. To be a good Planning Commissioner requires commitment to ensuring a promising future of the community coupled with hard work, the patience to listen, and the willingness and ability to make decisions.

A good Planning Commissioner must have some understanding of the basic topics:

- What Planning is;
- Zoning and Subdivision law;
- The California Environmental Quality Act (CEQA);
- Planning Commission procedures;
- The authority and duties of the Planning Commission;
- Legal aspects of Planning Commission conduct; and
- Standards for Planning Commission decision-making.

The purpose of this handbook is to provide this information. Although being a Planning Commissioner will always be challenging, reading this handbook will make the challenge easier and more understandable.

### 1.2. What is a Planning Commission?

As used in this handbook, the Planning Commission refers to the body of citizens appointed by the Paso Robles City Council to serve as the Paso Robles Planning Commission. The Planning Commission is an advisory body to the City Council on issues and policies related to planning, land use regulation and community development. The Planning Commission has the ability to make a final decision on a certain level of “Quasi-Judicial” projects, pending appeal to the City Council.

**City of Paso Robles  
2017 Planning Commission Handbook**

6

California Planning and Zoning Law allows cities and counties to establish Planning Commissions and provide for planning, subdivision and land use regulation. A City Council choosing not to establish a Planning Commission would serve as the Planning Commission instead (this is a rare occurrence.)

Each city or county establishing a Planning Commission passes an ordinance that defines its duties and scope, and which may identify the number of members, their qualifications, how vacancies are filled, the frequency of regular meetings, who serves as their staff, and general operating procedures. The City of Paso Robles' Planning Commission ordinance is contained in Section 2.20. of the Paso Robles Municipal Code.

**1.3. Planning Commission Duties**

Duties of the Planning Commission include, but are not limited to:

- Holding regular public hearings and meetings;
- Review and recommended updates to the General Plan;
- Review and recommendations to the zoning code;
- Recommendation on General Plan amendments and Zoning changes for property.
- Review and recommendations for specific plans;
- Approval of subdivision maps;
- Approval of conditional use permits, development plans and variances;
- Certification of California Environmental Quality Act determinations;
- Reviewing and recommending special planning studies.

The role of the Planning Commission in shaping the future of Paso Robles is extremely important. The City Council has a variety of other responsibilities and depends on the Planning Commission to spend sufficient time studying current or planned development activities. The Planning Commission plays a key role in the City by taking the lead in reviewing and evaluating land-use and development issues in both the near-term and the long-term.

**1.4. Best Practices**

After a person has been on the Planning Commission for a while, they will begin to recognize “best practices” about how the Planning Commission should conduct its business. Listed below are some “pointers” that should help to provide some guidance. They are taken from the experience of other Planning Commissions and from other training publications.

- Stick to adopted bylaws and procedures.

- Have the staff develop and make available accurate and reliable information, including data and maps.
- Prepare and maintain an adequate General Plan, refer to it, and make decisions that are consistent with its policies. Implement the Plan and its policies.
- Annually re-examine what the Planning Commission is doing, how well it is doing it, and how to do it better.
- Meet periodically with the City Council to exchange ideas and to assess mutual objectives (normally done in joint study sessions.)
- Tell staff what is wanted and how material should be presented to the Planning Commission. Don't wait for the experts to tell the Planning Commission what to do next.
- If possible, attend some short courses on planning techniques or the latest in land-use law and expect the staff to do the same.
- Find out what other communities are doing. Sometimes it's surprising to find out how far ahead your community is in comparison.
- Lobby for good planning. If the Planning Commission doesn't, who will?
- Take time to orient new Planning Commissioners to the job. Remember how tough it is to get the hang of being new?
- Have the staff keep organized and complete files. There is no substitute for a complete record of Planning Commission action.
- Be consistent in decision-making.



## Chapter 2. Role and Activities of the Planning Commission Introduction

Planning Commissioners put in long hours of hard work resolving complex, sometimes difficult, issues. Why would citizens want to subject themselves to long hours and hard work for little compensation and little public recognition? Probably because they are people who take an active interest in the welfare of their community and are willing to put that civic-mindedness to work. While the job can be difficult, it is also rewarding to participate in decisions and formulate ideas that will help shape the physical, social, and economic future of the community.

### 2.1. Purpose of the Planning Commission

The Planning Commission acts on behalf of the City Council in deciding on and recommending land-use activities and related matters. The Planning Commission has the authority and the responsibility to play a central role in making decisions and advising the City Council in land-use concerns and development issues.

### 2.2. The Authority of the Planning Commission

The Planning Commission derives its authority and duties through California Government Code Section 65101. That authority is further detailed in the Paso Robles Municipal Code 2.20 defining the composition and duties of the Planning Commission.

### 2.3. Duties of the Planning Commission

The following list of duties shows the range of activities with which a Planning Commission may become involved:

#### 2.3.1. General Plan Updates

The General Plan, which is discussed in more detail in the next chapter, contains a land use vision of Paso Robles articulated in policy statements and mapping of the community. The General Plan is the most important document the Planning Commission will work on, since it will be the blueprint for decision-making on land-use and development.

#### 2.3.2. Zoning Code Regulations

Zoning code regulations are used to implement the General Plan. The Planning Commission is closely involved in the preparation and amendment of zoning code regulations and provides recommendations to the City Council.

**City of Paso Robles  
2017 Planning Commission Handbook**

9

**2.3.3. General Plan Amendments and Rezonings of Property**

The Planning Commission reviews proposed general plan amendments and zoning changes and makes a recommendation to the City Council whether a change should be granted. The City Council has the final decision on these “Legislative” decisions.

**2.3.4. Planning Entitlements**

The Planning Commission has the authority to approve or deny planning entitlement applications which include conditional use permit, subdivision maps, development plans and variances. Included with these planning entitlements are environmental documents such as Environmental Impact Reports (EIR’s) and Negative Declarations.

**2.3.5. Hearing of Appeals**

The Planning Commission hears appeals of Zoning Administrator (Community Development Director) decisions. In addition, in some instances the Zoning Administrator may refer items up to the Planning Commission for review or Planning Commissioners may call up Zoning Administrator decisions for review.

**2.3.6. Public Meetings and Hearings**

The most important activity the Planning Commission undertakes are public meetings and hearings. These meetings provide an opportunity for direct interaction between the Planning Commission and local residents. This gives local residents an opportunity to see the Planning Commission “in action”, and gives the Planning Commission members the chance to hear first-hand about residents’ concerns.

**2.4. Characteristics of the ideal Planning Commission**

Having the right mix of members on the Planning Commission can be critical to its success as a productive and respected group. A Planning Commission interested in its work, with a collective sense of its mission and responsibilities will fare much better than one which is disorganized and lacks a clear grasp of its public duties. A dedicated individual who understands the community and is willing to work for its well-being is the best kind of Planning Commissioner.

The ideal Planning Commission should reflect the following:

- **Balance.** Membership on the Planning Commission should attempt to reflect the diversity of the community while at the same time consisting of people who are known to be level-headed, practical, and willing to work together. The Planning Commission should not be composed of people who think alike. Nor should a Planning Commission be appointed that has individual members so opinionated that they cannot reach consensus.

- **Skills.** A Planning Commission should not be made up of just architects and engineers or business owners or builders. A range of skills is needed to provide depth and perspective in the Planning Commission’s deliberations.
- **Understanding of Community.** A Planning Commissioner should have some understanding of the forces that are shaping events in the community. This would include understanding attitudes and issues about growth and development, knowing how the local economy works, and having some knowledge of community land-use and development trends.
- **Understanding the Public Process.** Planning Commissioners represent and work on behalf of the public. The interests of the public must be kept in mind in both the way that business is conducted (procedural) and in the decisions that are made (substantive). Planning Commissioners should understand that working in a public process can be frustrating and time consuming. This is because everyone’s interests, including the interests of the community at large, must be considered, and not just those of particular advocacy groups or individuals.
- **Commitment to Planning.** Planning Commissioners will not always agree on what constitutes good planning but they should all agree that planning is important.
- **Conflict of Interest.** A Planning Commissioner who frequently has to declare a conflict of interest and refrain from voting is not a fully participating member of the body.
- **Special Interests.** A Planning Commission which is seen as being too cozy with special interest groups will lose credibility with the public and could find its decisions constantly under scrutiny or even being challenged in the courts. Public loss of confidence in the Planning Commission could result in qualified people declining to apply and a gradual deterioration in the Planning Commission’s ability to do the public’s work.
- **Objectivity.** This important trait is basically the ability to distinguish between fact and opinion. Planning Commissioners should be able to support decisions based on the facts, even if it disagrees with their personal opinion.
- **Sufficient Free Time.** A Planning Commissioner should have the time to, not only attend meetings, committee meetings and work sessions, but also to prepare for the meetings beforehand. No community is well served by a Planning Commissioner who is unprepared and tries to “wing it” at public hearings. Planning Commissioners should also have time to attend training sessions during the year.

## **2.5. Planning Commissioner Responsibilities**

It is important for Commission members to understand their role as an advisory commission and respect the decisions made by the City Council and staff.

Planning Commission terms commence on March 1<sup>st</sup> and run for three years (refer to PRMC Section 2.20.010). There are three overlapping Planning Commission term cycles. Planning Commissioners may serve three terms for a total of nine years. Each year the City Council reconsiders expiring Planning Commission appointments. Planning Commission must apply for reappointment and we compete with new applicants for annual vacant seats.

Unexcused absence from three consecutive regular meetings, or conduct detrimental to the City, may be considered as cause for removal by the Council.

It is recognized that Commission members have legitimate interests (economic, professional, and vocational) of a private nature. Commission members shall not be denied, nor should they deny to other Commission members or citizens, the opportunity to acquire, retain, and pursue private interests, economic or otherwise, except when conflicts with their responsibility to the public cannot be avoided. Commission members must exercise their best judgment to determine when this is the case.

Commission members will understand that Commission decisions may be counter to, the decisions or policies of the City Council. When this occurs, it is incumbent upon the Commission members to understand the Commission's role and be willing to accept the decisions made by the City Council as acting in the best interest of the citizens of Paso Robles.

A Commissioner is expected:

### **To Know**

- His or her responsibilities.
- The services and resources provided by the City to support the Commission
- The City and County Government organization and its officials
- The people in our community
- How to work effectively in a group
- The workings of all the City's different departments and programs.

### **To Remember**

- That daily permitting, customer relations and ministerial processes are staff's responsibility
- That working through the staff is the appropriate method for effecting change.

**City of Paso Robles  
2017 Planning Commission Handbook****12**

- That a Commissioner's personal opinion is important in Commission deliberations, but that supporting policies once they are approved by the Commission are in the best interest of the entire community.

**To Attend**

- Commission and committee meetings
- Minimize absences and always contact the Chairperson prior to being absent
- Other meetings, including City Council meetings, joint sessions and workshops as assigned

**To Fully Participate By**

- Reading agenda materials and other relevant documents before the meeting.
- Visiting projects sites.
- Asking questions to ensure he or she had a full understanding of the project under consideration
- Notifying staff ahead of time of significant questions or issues so that staff can prepare an informed response
- Sharing his/her knowledge and perspective with other commission members, to improve the quality of the dialog and the resulting decision

**To Plan**

- Future needs and priorities of the community
- Active community outreach and engagement of planning and land use issues
- Orientation for new commission members

**To Support Decisions and City Policies**

- Understand and support Council policy
- Support the decisions of the Commission
- Respect the public and its right to information

**To Act**

- Articulate the needs of the community
- Be a good listener to public concerns
- Develop good personal relations with the public and stakeholders
- Be visible in the community

## **2.6. The Planning Commission's Relationship City Council**

**Relationship to the City Council.** The most important aspect of the relationship between the Planning Commission and the City Council is understanding the Planning Commission's advisory role. The City Council is the legislative body of the City and therefore has final say on all ordinances and policies. Many planning entitlements are legislative changes (adoption of new ordinances or policy) including:

- General Plan amendments
- Zoning Code amendments
- Property redesignations of General Plan land use or zoning amendments
- Oak Tree Removal Permits

In these cases, advisory means that the Planning Commission makes recommendations to the City Council and the City Council has the final say.

For example, the Planning Commission might recommend a change in the zoning code but it is the City Council that takes final action on the proposed change after consideration the Planning Commission recommendation. The City Council has the authority to make changes from the Planning Commission's recommendation. A Planning Commission that has a good working relationship with the City Council can play a key role in keeping the City Council informed and educated about planning issues. If the Planning Commission can give the City Council good, solid reasons for the positions it takes, the chances are improved the Planning Commission's recommendation will be accepted.

## **2.7. Planning Commission Commissioner Rights**

Each member has a number of important general rights including, to:

- Participate in the Commission's deliberations and actions to the same extent as any other member.
- Be informed of Commission meetings in sufficient time to permit study and review before action is required.
- Request changes in minutes before they are approved in order to ensure that they accurately reflect actual events.
- Request additional information on any matter being considered.
- To respectfully question anyone who appears before the Commission.
- Express opinions concerning projects or issues during deliberations.
- Bring any concern about issues within the Commission's purview to the attention of the entire commission.

- Ask the chair to clarify the way in which a meeting is being conducted at any time.
- Request that a vote be taken in a specific manner, such as roll call, voice, vote or show of hands, if not inconsistent with the commission's written policies, rules, or policy.
- Request the minutes record a member's opposition to any action approved by a majority vote, or a member's support of any action disapproved by a majority vote.
- Move, with stated due cause, to defer action on any item of business until a later date.
- Vote "No."
- Abstain from voting with reason explained, or to disqualify oneself from voting with reason explained.
- During hearing deliberations to advocate the Commission take a position for or against any project or issue.
- Request placement on a future agenda of any relevant business within the Commission's purview.
- Seek counsel from the City Attorney for answers, clarification on an issue prior to taking action by the Commission.
- Request policies and procedures of the Commission.
- Review the files or records of previous meetings of the Commission.
- Ask questions and make recommendations relating to effective organization of the Commission.
- Carry out one's duties with the degree of independence from staff and the City Council.
- Resist improper pressure of coercion to make decisions on projects.

All members also retain the rights of any citizen. Such rights include: participating in political activities of their choosing at any level of government and remaining silent concerning personal political affiliation.

## **2.8. Working with City Staff**

**Relationship with City Staff.** The Community Development Director and planning staff support the operation and function of the Planning Commission as a City body. However, staff is not supervised or directed by the Planning Commission. Staff works under the direction of the City Manager, who



ultimately has final say on all staff priorities and work programs. The Planning Commission needs to understand that even though the planners serve the Commission by preparing staff reports, the planners are accountable to the Community Development Director, who is, in turn, accountable to the City Manager. It is within the Planning Commission's authority to request information or research from planning staff, however the final decision on how much staff resources to devote to a request will be made by the Community Development Director.

For example, it is not within the Planning Commission's authority, to direct staff to prepare a new General Plan or rewrite the zoning code. These kinds of major undertakings require significant allocation of staff resources and unbudgeted funds. These are prioritization decisions that must be approved by the City Council. In this example, the Planning Commission's role should be to make a formal recommendation to the City Council to allocate funding and direct staff to undertake a particular study.

## **2.9. Committees**

The City of Paso Robles uses a number of Standing and Ad Hoc Committees to expand the City's capacity to address community issues and gather public input. Due to Commissioner knowledge and experience related to land use issues, Commissioners are often asked to serve on committees. Commissioners that are selected for committees need to make every effort to attend meetings.

### **2.9.1. Standing Committees**

Standing committees of City are subject to the Brown Act. The Brown Act describes a standing committee as one which has "continuing subject matter jurisdiction." This means that a permanent committee that is designed to handle an issue or issues on a continual basis will be a standing committee and is subject to notice and posting requirements.

The Development Review Committee of the Planning Commission is a standing committee.

### **2.9.2. Ad Hoc Committee**

Ad hoc or "temporary" committees are treated differently under the Brown Act. Ad hoc committees are not subject to the notice and posting requirements of the Act so long as the committee has a defined purpose and a defined time frame. An Ad Hoc Committee is advisory with no decision-making power. The purpose of the Ad Hoc Committee is to return a recommendation to either the Planning Commission or City Council.



**2.9.3. Liaisons to City Committees**

The City Council has appointed a number of other standing committees to oversee other City functions. Planning Commission liaisons are appointed to the following committees. The liaisons are not intended to participate in standing committee discussions, but rather listen and report back the Planning Commission. The following standing committees have Planning Commission liaisons:

- Parks and Recreation Advisory Committee
- Main Street Organization (not a formal City committee)

**2.10. Development Review Committee**

The Development Review Committee (DRC) is a very important Standing Committee of the Planning Commission. The DRC meets every Monday to review development application and signs for consistency with City design standards. The purpose of the DRC is upholding the City's high design standards with an expedited process for the applicants. The DRC makes the final decision on Site Plan reviews and Sign permits. The DRC makes recommendations to the Planning Commission on conditional use permits, development plans and tentative tract maps.

**2.11. Airport Commission**

In October 2016, the City Council dissolved the Airport Advisory Committee and create a new Airport Commission. The relationship coordination of roles between the Planning Commission and Airport Commission is still being formalized. This section will be updated and expanded as this information becomes available.

## Chapter 3. Introduction to Planning

City planning is the process of shaping a community's future. There are variety of decisions regarding land-use, capital improvements, community design, city finances that contribute to this future vision. Planning and land use regulations provide a process to facilitate community growth in a more orderly, environmentally sustainable, equitable and cost effective manner.

It is important to remember that planning is an ongoing process; it is never done. It is a continuing activity, as ideas, values, and policies change to reflect the community's changing conditions. Planning can involve differing, even opposite points of view, and disagreements may arise that may be difficult to resolve. Yet the effort can be rewarding if the community finds common ground and works together on a common future vision.

### 3.1. What is Planning?

Everyone plans. Planning is an activity that touches just about every aspect of life. Individuals plan their daily schedule as well as more long-range activities such as trips and vacations. Friends plan trips, or may organize their efforts to engage in other types of group activities. Families plan for major purchases such as a home or new car. Businesses plan their purchasing, inventory, pricing and marketing. The common thread that runs through these seemingly different activities is the time, effort and expense that is saved in the future by thinking ahead and plotting a course of action today. City planning may involve more people and be more complex than planning a three-day vacation, but it shares that common thread of organizing the future.

### 3.2. Why Plan?

Communities can realize tangible benefits from planning:

#### **Planning Saves Money.**

A community can achieve efficiencies in operating government as the result of good planning decisions. For example, zoning that permits construction of a residential subdivision at a long distance from services will prove costly. Residents of the development may request water and sewer, fire, police, road maintenance, and the other services already provided in developed areas of the community and place unanticipated demands on the budget. The same development located adjacent or near to existing services would create a lower long-term demand on the budget through reduction in utility extension costs, maintenance, and related manpower requirements.

#### **Planning Establishes the Ground Rules.**

Planning establishes ground rules and standards for developers and residents alike and sets the pattern for the community's design and development. A community with up to date general plan and land-use regulations will give a clear signal of community's standards and procedures. Developers know the ground rules and know what to expect when a proposal is submitted for the

Planning Commission's consideration and the public knows the standards which will apply during the evaluation of a proposal. Having standards will not eliminate conflicts; however, it should help create a level playing field and limit conflicts by having everyone involved or interested in a development activity "reading from the same page."

**Planning Can Promote Economic Development.**

The planning process allows residents and decision-makers to examine alternatives and choose courses of action that can promote employment and economic well-being.

**Planning Provides a Forum for Community Consensus.**

Public involvement and consensus building is a vital aspect of planning. A planning effort should involve as broad a segment of the community as possible to assure that the community's opinions are well expressed. This also gives a sense of "ownership" in the planning process. Community support will be limited if a plan is created by a small group of people who basically agree with each other. It is only when differing viewpoints and values are brought together and the forces of negotiation, persuasion and compromise are at work, that true consensus takes place.

**Planning Can Promote Community Design.**

Community design is the deliberate process of building the community on the basis of agreed to architectural, aesthetic, and urban design objectives. It represents an effort to create a proportional balance between the man-made and the natural environments. For example, locating a mini-storage next to historic buildings would create a significant design problem. Likewise, a development that ignores natural features to create a standard tract subdivision can damage or destroy natural features and functions.

**Planning Can Protect Property and Property Values.**

Planning can protect property and property values by separating incompatible land uses from surrounding residential and commercial uses. Planning also helps to protect stable neighborhoods and their homes to retain their values. Property values can also be enhanced when the community plans for parks, trails, playgrounds and other amenities. Maintaining property values helps support revenues brought into the City through property tax revenue.

**Planning Can Reduce Environmental Damage and Conserve Resources.**

Planning can help a community identify areas where development may be inadvisable because of environmental conditions. These conditions may include flood zones, steep slopes, unstable landforms, archaeological site, or oak woodlands other conditions which are incompatible with urban uses. Planning can also classify areas which have important habitat or wildlife values.

**3.3. A Short History of Planning**

Community planning in the United States is not a new concept. Colonial Philadelphia, Williamsburg and the new capital of Washington D.C. were "planned" towns where the streets and public buildings were designed before development began. These cities were following the model

established by European cities that incorporated an overall design in their development. French Boulevards were arranged in relation to monumental public buildings and extensive parks to enhance the visual impression of the city. These designs were the work of architects who worked much in the same way as a painter designs a canvas.

This concept of community design continued in the United States until the early 1900's. Later on, the technique of zoning gained acceptance and legal validity as a tool to guide overall city development. Zoning was a reaction to the situation where original town forms were being destroyed by new incompatible industrial uses. The separation of certain uses and buildings through zoning protected property values and avoided unsafe mixtures of residential and industrial districts.

Community planning took place in earnest in the 1930's and 1940's, as federal expenditures helped fund numerous planning studies. With the passage of Section 701 of the Federal Housing Act in 1954, local planning activity increased dramatically. Many communities used the "701" monies to create community plans to meet both the federal funding requirements as well as deal with local issues. The program was discontinued in 1981.

Passage of the Housing Act was followed closely by federal programs like the Urban Redevelopment Administration and the Overall Economic Development Program in the 1960's, the Coastal Zone Management Act in the early 1970's, and other federal legislation that offered money or encouragement for community and regional planning.

Historically, California has been on the leading edge of planning requirements for cities and counties. The State's legal requirements to have all zoning and land use approvals be consistent with the general plan cemented the general plan as the keystone of development activity in California.

#### **Milestones in California's Planning Law**

- 1907 First Subdivision Map Act enacted.
- 1915 Cities authorized to create planning commissions.
- 1917 Initial zoning law enacted.
- 1927 Cities and counties authorized to prepare master plans (general plans).
- 1929 Adoption of master plans made mandatory for those cities and counties establishing planning commissions (based largely on the 1928 U.S. Department of Commerce Model Standard City Planning Enabling Act). Subdivision Map Act revised enabling local governments to require dedication of improvements.
- 1937 All cities and counties required to adopt master plans. Cities and counties authorized to prepare "precise plans" (similar to specific plans of today) to implement the master plan.

- 1953 Planning law recodified into Government Code §65000, et seq. 1955. Land use and circulation elements required in the general plan.
- 1965 Planning and Zoning Law reorganized. Cities and counties authorized to prepare “specific plans.”
- 1967 Housing element required in the general plan (effective July 1, 1969). 1970 Conservation and open-space elements required in the general plan.
- 1971 Safety, seismic safety, noise, and scenic highway elements required in the general plan. Zoning and subdivision approvals required to be consistent with the adopted general plan.
- 1973 OPR issues first General Plan Guidelines.
- 1974 Subdivision Map Act recodified from the Business and Professions Code into the State Planning and Zoning Law within the Government Code.
- 1975 Legislature clarifies statute on general plans’ internal consistency.
- 1980 Detailed content standards and adoption procedures added to the housing element requirement. Appeals court says public works must be consistent with general plans (Friends of B Street).
- 1982 Appeals court says land use and circulation elements must correlate (Twaine Harte).
- 1984 Planning statutes substantially revised, seismic safety and scenic highways elements dropped as required elements, seismic safety merged with safety element.
- 1990 California Supreme Court says zoning in conflict with the general plan invalid (Leshner v. Walnut Creek).
- 2001 Legislature requires General Plan Guidelines to include environmental justice.

*This summary does not include other major planning and land use statutes that have been important in shaping local planning, such as the California Environmental Quality Act, the Williamson Act, the California Coastal Act, and the Cortese-Knox-Hertzberg Local Government Reorganization Act.*

### **3.4. Authority for Local Planning in California**

The following state and City laws outline the basic legal framework for local planning:

- Establishment of local planning agencies, Planning Commissions and departments. Government Code Section 65100 *et. seq.*
- General plan and specific plans. Government Code Section 65300 *et. seq.*
- Zoning regulations. Government Code Section 65800 *et. seq.*
- Subdivision Map Act. Government Code Section 66410 *et. seq.*
- Development Agreements. Government Code Section 65864 *et. seq.*
- California Environmental Quality Act. Public Resources Code Section 21000 *et. seq.*; California Code Regulations title 14, Sections 15000-15387 (Also known as the CEQA Guidelines).
- Ralph M. Brown Act, Government Code Section 54950 *et. seq.* (also known as Open Meeting Act, or simply the Brown Act).
- Permit Streamlining Act. Government Code Section 65920 *et. seq.*
- City of Paso Robles Charter and Municipal Code

### **3.5. What Is a General Plan?**

The general plan provides the framework for all zoning and land use decisions within a community. State planning law requires that the general plan include a comprehensive, long-term plan for a city or county's physical development. The general plan shall consist of a "statement of development policies" and must include diagrams and text setting forth "objectives, principles, standards, and plan proposals". The general plan consists of seven mandatory elements and any optional element a city chooses to adopt.

Since 1971, State law has required all cities and counties to have a legally adequate general plan with all of the mandatory elements.

In sum, the preparation, adoption and implementation of a general plan serves to:

- Identify a community's land use, circulation, housing, environmental, economic and social goals and policies as they relate to land use and development;
- Provide a basis for local government decision making, including decisions on development approvals;
- Provide citizens with opportunities to participate in the planning and decision making processes of their community; and

- Inform citizens, developers, and decision makers of the ground rules that guide development within the community.

The general plan bridges the gap between community values, visions and objectives, and physical decisions such as planning application approvals for development projects.

The seven mandatory elements of the general plan are as follows:

### **3.5.1. Land Use Element**

The land use element of a general plan identifies the proposed general distribution and intensity of uses of land for housing, business, industry, open space, natural resources, public facilities and other categories of public and private uses. This element serves at the central framework for the general plan and is intended to correlate all land use issues into a set of coherent development policies.

### **3.5.2. Circulation Element**

The circulation element identifies the general location and extent of existing and proposed major roadways, transit routes, terminals and other local public transportation utilities and facilities. Generally, this element also includes standards (intersection level of service “LOS”) policies and improvement plans. Any proposed transportation improvements must correlate to other elements of the plan, including the land use element.

### **3.5.3. Housing Element**

The housing element identifies and analyzes existing and project housing needs and includes a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement and development of housing. The housing element must demonstrate adequate sites and policy support to facilitate construction of the Regional Housing Needs Allocation (RHNA). The housing element is the only general plan element for which state law sets forth specific content and schedule requirements. All housing element revisions must be reviewed and certified by the State of California Housing and Community Development (HCD) Department in order for the housing element to be in compliance with state law.

### **3.5.4. Conservation Element**

The conservation element deals with the identification, conservation, development and use of natural resources

### **3.5.5. Open Space Element**

The open space element is the plan for the comprehensive and long-range preservation of open space land.

### **3.5.6. Noise Element**

This element identifies and analyzes noise issues in the community. Current and projected noise levels are indicated, and policies dealing with compatibility of land uses with specific noise levels are also detailed.

### **3.5.7. Safety Element**

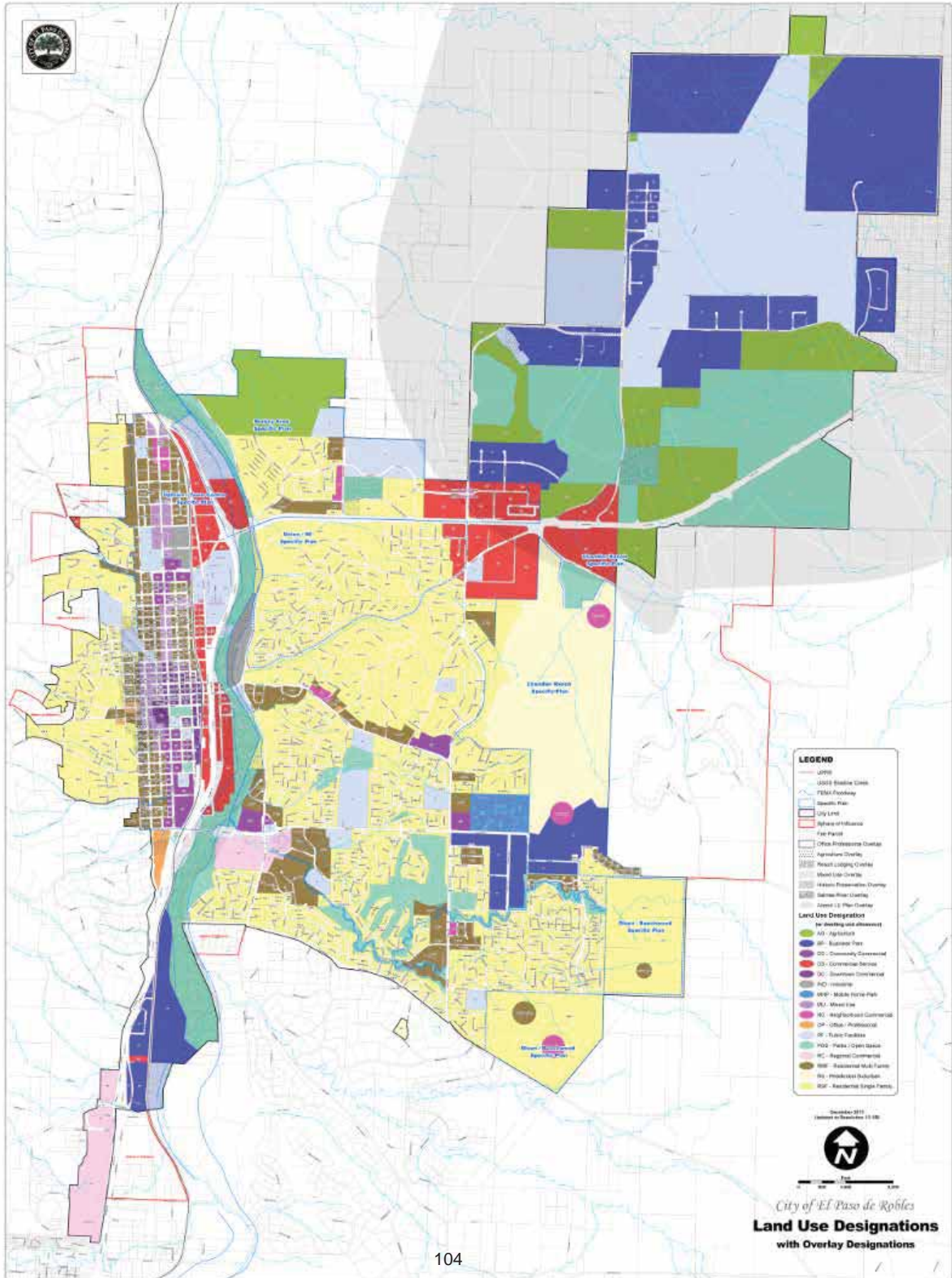
The safety element establishes policies and programs to protect the community from risks associated with seismic, geologic, flood and wildlife hazards.

11/8/16 - PC Review Draft



### 3.6. City of Paso Robles General Plan

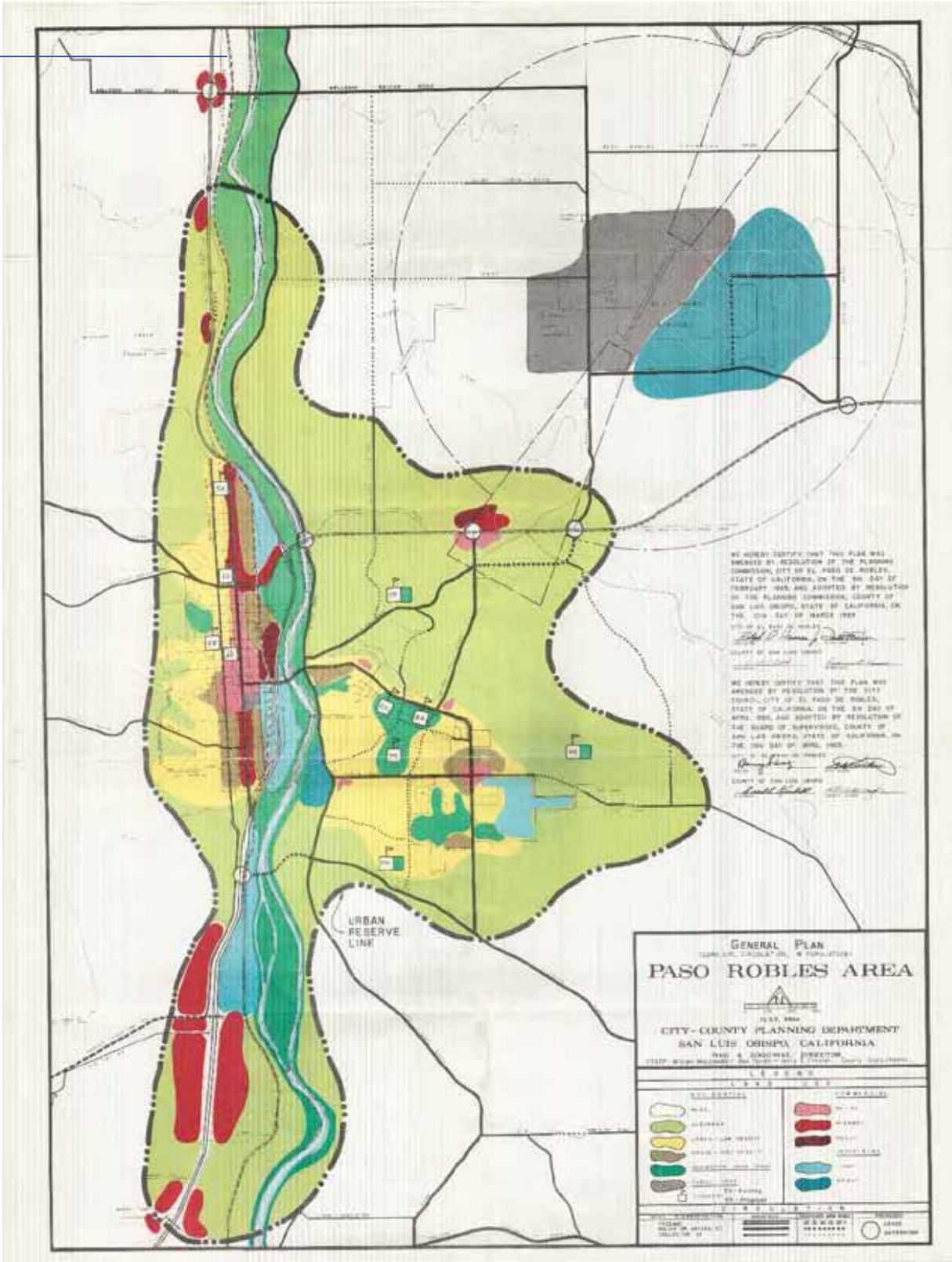
The latest version of the City of Paso Robles' General Plan is available on the City's website at:  
<http://www.prcity.com/government/departments/commdev/planning/general-plan-final.asp>



# Attachment 1

City of Paso Robles  
2017 Planning Commission Handbook

## 1964 Paso Robles General Plan



### 3.7. What Planning Cannot Do

While a planning effort and a general plan can produce benefits, it's a mistake to believe that planning has all the answers and is a "cure-all" for whatever ails the community. Planning will produce positive results when it is supported and followed by the public, Planning Commission and City Council. The following limitations, however, should be noted:

- Planning cannot produce miracles, and cannot be expected to suddenly cure all of a community's ills. It is not a short-term proposition, but a medium to long-term undertaking.
- Planning cannot be used to exclude newcomers to the community nor can it be used to prevent change or to keep everything in the community just the way it is.
- Planning cannot be a device for problem-solving or a means of avoiding mistakes unless it has credibility among residents and is supported by elected and appointed public officials.
- Planning cannot succeed without implementing the policies contained in the planning document. Planning needs some sort of action program to carry out its objectives.
- Planning cannot turn a community around and restore economic health and vitality overnight. To do so requires patience, commitment, and vision.
- Planning cannot succeed if it fails to balance competing points of view in the community. A successful planning effort brings all of the players to the table.
- Planning cannot work to the benefit of your community unless you want it to.



## Chapter 4. PLAN IMPLEMENTATION

### 4.1. The Importance of Implementation

The completion of a general plan is a big step, one which represents a substantial expenditure of time and effort, but it does not represent the completion of a planning program. The program will not be complete until ordinances are adopted that implement the plan's goals and policies. Zoning code, subdivision ordinances, specific plans and capital improvements plan are the most recognized and widely used means of implementation.

The zoning and subdivision codes must be kept up-to-date and consistent with the general plan. This is because the general plan is a policy document, while the zoning and subdivision regulations are ordinances that are enforceable by law. Since the general plan will undergo periodic updating to remain accurate, the regulations must be updated too, to assure consistency with the general plan. A revised and updated general plan will be of little use to the community if the zoning and subdivision regulations lag behind and represent outdated policies and land use designations.

Implementing ordinances will be more precise and specific than the goals and policies contained in a general plan. For instance, a general plan may contain a policy promoting low density single family dwelling neighborhoods. A provision in a zoning ordinance adopted to implement the general plan policy might contain standards requiring each new home be constructed on a 6,000 square foot lot with 10-foot side setbacks.

### 4.2. Zoning Regulations

Zoning is the classification of land according to use, such as single-family residential, commercial or industrial, and the establishment of standards governing land uses within each zone. Land uses may be permitted by right, conditionally permitted, permitted as an accessory use, or prohibited.

**TABLE 21.16.200**  
(As amended through Ordinance 934 N.S.)  
**PERMITTED LAND USES FOR ALL ZONING DISTRICTS**

**EXPLANATION OF CODES USED IN THIS CHART**

P (permitted use) denotes a land use which is permitted.  
 C (conditional use) denotes a land use which requires approval of a conditional use permit (CUP).  
 N (non-permitted use) denotes a land use which is not permitted.  
 T (temporary use permit) denotes a land use which requires approval of a temporary use permit per Chapter 21.23C.

**NOTES:**

1. All uses are subject to compliance with the general regulations and performance standards contained within Chapters 21.20 and 21.21, and specific limits and/or restrictions contained in chapters for specific zoning districts. Additionally, there may be limits and restrictions within overlay zoning districts and specific plan areas.
2. Any use not specifically listed below is not permitted unless the planning commission determines a particular land use to be similar to another permitted, conditional or temporary use within a particular zoning district.

LAND USE	ZONING DISTRICT																	
	AG	RA	R1	R2	R3	R30	R4	R5	OP	CP	C1	C2	C3	RC	M	PM	AP	POS
<b>A. Agriculture and Animal Keeping</b>																		
1. Animal Hospitals, veterinary clinics (Includes overnight boarding as an accessory use). *Note - See Section 21.18.040, allowed in OP zone with CUP in the Gateway Center and Creston Road Corridor (small animals only).	P	C	N	N	N	N	N	N	N*	C	C	C	C	N	C	N	N	N
2. Animal keeping:																		
a. Bee keeping.	P	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
b. Cattle, horse and sheep grazing.	P	P	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P
c. Commercial poultry, goat, rabbit farms and dairies.	P	C	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
d. Hogs, pig keeping or farming.	P	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
e. Equestrian facilities.	C	C	N	N	N	N	N	N	N	N	N	N	C	N	N	N	C	C

A city’s Zoning Ordinance consists of two parts: the zoning map and the zone code. The Zoning Map shows the location of different land use designations, while the code contains standards for each classification. These standards include minimum lot size, setbacks, maximum building size, and listings of permitted, accessory, conditional and prohibited uses.

### 4.3. City of Paso Robles Zoning Ordinance

The City of Paso Robles’ Zoning Ordinance is Title 21 of the Paso Robles Municipal Code and is available on-line at:

[https://www.municode.com/library/ca/el\\_paso\\_de\\_robles/codes/code\\_of\\_ordinances](https://www.municode.com/library/ca/el_paso_de_robles/codes/code_of_ordinances)

#### 4.4. Authority for Zoning

State Government Code Section 65800 provides for the adoption and administration of zoning in California:

“65800. It is the purpose of this chapter to provide for the adoption and administration of zoning laws, ordinances, rules and regulations by counties and cities, as well as to implement such general plan as may be in effect in any such county or city...the Legislature declares that in enacting this chapter it is its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.”

Paso Robles has adopted its own zoning code pursuant to this state enabling legislation. The pertinent sections of the zoning code are referred to in any matters brought before the Planning Commission.

#### 4.5. The History of Legal Basis for Zoning

Zoning began in the United States in the early part of the 20th century as an attempt to promote public health and fire safety and separate incompatible uses. In New York, for example, zoning began in an attempt to stop the spread of the garment district up 5th Avenue and to improve the safety and living conditions in tenements. Many lower courts had upheld zoning in the 1920's. It was not until 1926, however, that the United States Supreme Court ruled in the landmark case of *the Village of Euclid v. Ambler Realty*, that zoning was a constitutional use of the police power. Justice Sutherland stated in the majority opinion that:

*"each community has the right and responsibility to determine its own character and as long as that determination [does] not disturb the orderly growth of the region and the nation it is a valid use of the police power."*

After this decision, zoning spread rapidly throughout the United States and became the most widely accepted means of regulating land-use activities. By the 1950's, zoning had become closely associated with comprehensive planning, to the extent that the terms were often used interchangeably. In subsequent years, however, the general plan has become recognized as a policy document and the zoning ordinance as a regulatory document. In fact, California State law requires that zoning must be consistent with the general plan.

The police power is basically the government's right to place controls over individual behavior and the use of private property to promote the health, safety and welfare of the community at large. The controls, such as a litter ordinance or zoning code, must have a reasonable basis, avoid constitutional pitfalls and serve a public purpose. Unlike the power of eminent domain, where just compensation must be paid for property which is taken for a public purpose, no compensation is required when zoning is used as a valid exercise of the police power. Zoning has been recognized as a legitimate use of the police power since the *Euclid v. Ambler* case. Times and conditions

continually change, however, and zoning and land-use regulation is regularly under review and interpretation by the courts.

#### **4.6. Subdivision Regulations**

Subdivision is a largely technical activity that is fundamentally different than zoning, despite its common use in implementing the general plan. Subdivision does not address the use of land for residential, commercial and other activities. Instead, it establishes standards for subdividing land and places certain requirements on those divisions. Its purpose is not to determine which land-use goes where, but to assure that lots are created and improved in accordance with community standards and are properly surveyed and recorded prior to sale to a buyer.

#### **4.7. City of Paso Robles Subdivision Ordinance**

The City of Paso Robles Subdivision Ordinance is Title 22 of the Paso Robles Municipal Code and is available at:

[https://www.municode.com/library/ca/el\\_paso\\_de\\_robles/codes/code\\_of\\_ordinances?nodeId=IT22SU](https://www.municode.com/library/ca/el_paso_de_robles/codes/code_of_ordinances?nodeId=IT22SU)

#### **4.8. Authority for Subdivisions**

The Subdivision Map Act, Government Code Section 66411 gives cities and counties the ability to regulate and control the design and improvement of subdivision within its boundaries.

The Subdivision Map Act's primary goals are to:

- To encourage orderly community development by providing for the regulation and control of the design and improvement of the subdivision, with a proper consideration of its relation to adjoining areas;
- To ensure that the areas within the subdivision that are dedicated for public purpose will be properly improved by the subdivider that they will not become an undue burden on the community; and
- To protect the public and individual transferees from fraud and exploitation.

Paso Robles has adopted its own Subdivision Ordinance, consistent with the Subdivision Map Act. The most typical type of subdivision in Paso Robles a residential parcel map or tract map. Parcel maps involve subdivision of four or fewer lots and don't require public improvements prior to recordation. Tract maps involve subdivisions of five or more lots and require the installation of public improvements prior to recordation. Subdivision improvement bonds may be provided to guarantee improvements and permit recordation of unimproved tract maps.

#### **4.9. Paso Robles Planning Approvals**

There are a number of planning approvals or entitlements which will come before the Planning Commission for consideration. Legislative entitlements require City Council approval and the Planning Commission acts in an advisory role making a recommendation.

##### **Legislative Decisions – Recommendations to City Council**

- General Plan amendments
- Zoning Ordinance and Map amendments
- Specific Plans
- Street Abandonments
- Annexations

The Planning Commission makes the final decision on Quasi-Judicial entitlements. These decisions may be appealed to the City Council.

##### **Quasi-Judicial Decisions – Planning Commission final decision**

- Conditional use permits (CUP)
- Development plans
- Parcel Maps
- Tract Maps
- Oak Tree Removal (required City Council approval – not legislative)
- Variances
- CEQA document certification

#### **4.10. Other Means of Implementation**

Zoning and subdivision are not the only means of implementing the general plan, though they are the most common. The Planning Commission can also use other measures to further the goals and objectives of the plan. These other measures can include, but are not limited to, such things as:

- **Capital improvements** that are consistent with general plan goals and objectives, such as paving or the construction of public facilities.
- **Design Guidelines** to regulate the appearance of buildings, including signs, color, lighting, landscaping, and parking.
- **Specific Plans** for selected areas of the City.



- **Affordable housing strategies** to enhance housing opportunities for low and moderate-income households.

#### **4.11. California Specific Plan Law**

A specific plan is a great tool for systematically implementing the general plan within all or a portion of the planning area (§65450, et seq.). A specific plan may be prepared by either the public or private sector, however, responsibility for its adoption, amendment, and repeal lies with the City Council. As a legislative act, a specific plan can also be adopted by voter initiative and is subject to referendum.

At a minimum, a specific plan must include a statement of its relationship to the general plan (§65451(b)) and text and diagram(s) specifying all of the following in detail:

- The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.
- The proposed distribution, location, extent, and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
- Standards and criteria by which development will proceed and standards for the conservation, development, and utilization of natural resources, where applicable.
- A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out the provisions of the preceding three paragraphs.
- Any other subjects that, in the judgment of the planning agency, are necessary or desirable for general plan implementation.

A specific plan is especially useful for large projects, as well as for sites with environmental and fiscal constraints. Statutory provisions allow streamlined permitting once a specific plan is in place. For example, residential development projects are exempt from CEQA if they implement and are consistent with a specific plan for which an EIR or supplemental EIR has been prepared (§65457). A specific plan can reduce development costs. For example, the specific plan's land use specifications, in combination with its capital improvements program, can eliminate uncertainties as to future utility capacities and help avoid costly oversizing.

#### **4.12. Specific Plans in Paso Robles**

The City of Paso Robles has a long history of successfully using specific plans to master plan future growth areas. The City adopted the Union Road / 46 Specific Plan in 1988 to facilitate the subdivision and infrastructure plan for a large residential area. Since then the City has approved the Borkey Area Specific Plan and the Uptown / Town Center Specific Plan. Specific plans cover approximately 25% of the City limits.

General Plan policy LU-2G requires specific plans and Environmental Impact Reports be approved for future residential development areas that were annexed in the 1990's. The purpose this policy is to ensure the proper planning of roads, schools, parks and utilities to support 3000 new homes. The specific plans will also identify the financing and cost sharing of public facilities.

##### **Existing Specific Plans**

- 1988 Union Road / 46 Specific Plan
- 1989 Borkey Area Specific Plan
- 2011 Uptown / Town Center Specific Plan

##### **Future Specific Plan**

- Chandler Ranch Specific Plan      1439 dwellings
- Beechwood Specific Plan            674 dwellings
- Olsen Specific Plan                    673 dwellings

#### **4.13. Annexations / Sphere of Influence**

Annexations refer to areas of unincorporated County land that is incorporated into the City of Paso Robles. The General Plan and LAFCO recognize a number of areas outside of the City limits as logical annexations to the City and identify these as the Sphere of Influence (SOI).

## Chapter 5. CEQA - THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

### 5.1. Overview

The California Environmental Quality Act (CEQA), Public Resources Code 21000 *et. seq.*, requires governmental agencies to consider the environmental consequences of their action before approving plans or projects. CEQA is referred to as a “sunshine” law whose purpose is to shine a light on governmental decision making and provide an opportunity for public participation. Original CEQA was intended to apply to large government projects like dams and nuclear power plants, but was quickly interpreted to apply to private development projects as well. In enacting CEQA, the Legislature explained that the CEQA process is intended to:

1. Inform governmental decision makers and the public about the potential environmental effects of proposed activities;
2. Identify the ways that environmental damage can be avoided or significantly reduced;
3. Prevent significant, avoidable environmental damage by requiring changes in projects, either by the adoption of alternatives or imposition of mitigation measures; and
4. Disclose to the public why a project was approved if that project would have significant environmental effects.

To assist in implementing CEQA, a set of guidelines, called “The CEQA Guidelines” have been adopted by the Secretary of Resources and incorporated into the California Code of Regulations, title 14, Section 15000 *et. seq.*

### 5.2. The CEQA Process

The following is a very simplified, brief explanation of the CEQA process. For a more complete understanding, there are many textbooks available for reading as well as workshops which address both general and specific CEQA topics.

#### 5.2.1. Is It a Project?

Not all city actions or actions approved by the city are considered projects which are subject to CEQA. An action is considered a project subject to CEQA if it is discretionary, that is, the city is required to exercise judgment in deciding whether to approve or deny a project, as opposed to situations in which the City merely has to determine whether there has been conformity with the objective standards adopted in the applicable code.

For example, planning applications, many of which come before the Planning Commission for review are considered discretionary actions which are subject to CEQA. The Planning Commission exercises judgment as to whether the project complies with the city's general plan, zoning code, design guidelines and any other applicable standards. However, a simple building permit, for a one-story code conforming addition to a single-family dwelling, does not require discretion (a planning application) and is ministerial only; if the codes are met, the permit is issued and no CEQA review is required.

### **5.2.2. Determining if the Project is Exempt from CEQA**

If an action is determined to be a "project", it may nevertheless be exempt from the provisions of CEQA. The actual law includes statutory exemptions for certain types of projects, many of which involve projects that are consistent with a previously adopted general plan, community plan, specific plan or zoning ordinance.

The CEQA Guidelines also include a list of "categorical exemptions" which are classes of projects that the Secretary of Resources has found do not have a significant effect on the environment. These types of categorical exemptions include new construction of small structures, minor roadway improvements, minor alterations of land use limitations, and many other types of small, minor projects.

### **5.2.3. Preparing an Initial Study**

If a project is not exempt from CEQA, an initial study will be prepared. This initial study includes a checklist of environmental issues; a standard checklist is provided in the CEQA Guidelines. In addition to the checklist, a written narrative must be provided to indicate why specific impacts were deemed to be potentially significant down to a rating of less than significant. In many instances, the initial study will incorporate the data and findings of special studies, such as a traffic study.

### **5.2.4. Negative Declaration**

If the initial study concludes that the project will not create a significant effect on the environment, a Negative Declaration can be prepared. A Negative Declaration is a written statement that an Environmental Impact Report (EIR) is not required because a project will not have a significant adverse impact on the environment.

A Negative Declaration may include conditions which mitigate potentially significant environmental impacts to a less than significant level. Such a negative declaration is often referred to as a "mitigated negative declaration". A mitigated negative declaration states that revisions made to the project or conditions agreed to by the applicant would avoid the potentially significant adverse impacts, and that there is no substantial evidence that the project, as revised and conditioned, will have a significant effect on the environment.

As a general rule, an agency may not adopt a negative declaration, and must prepare an EIR, if it can be fairly argued on the basis of substantial evidence that the project may have significant

environmental impact. Substantial evidence means enough relevant factual information exists so that a fair argument can be made to support this conclusion even though other conclusions may be reached.

However, argument, speculation, inaccurate information or unsubstantiated opinion does not constitute substantial evidence. Similarly, the existence of public controversy over the environmental effects of a project does not, in of itself, require preparation of an environmental impact report if there is no substantial evidence before the city that the project may have a significant effect on the environment.

#### **5.2.5. Environmental Impact Report**

If the project is determined to have the potential for generating significant environmental impacts, an environmental impact report (EIR) must be prepared. There are a number of required sections in an EIR:

- Table of contents or index
- Summary of proposed actions and its consequences
- Project description
- Environmental setting
- Evaluation of environmental impacts
- Significant environmental effects of the proposed project
- Significant environmental effects that cannot be avoided if the proposal is implemented
- Any significant irreversible environmental changes that would be involved if the proposed action should it be implemented.
- A discussion of the growth-inducing impacts
- Cumulative impacts
- Effects not found to be significant
- Mitigation measures: measures proposed to avoid or minimize the significant effects
- Alternatives to the proposed action
- Inconsistencies with applicable plan
- Organizations and persons consulted

Given the nature of the projects analyzed and the requirements of an EIR, an EIR is normally a much longer document than a Negative Declaration and takes longer to process.

### **5.3. Use of Environmental Documents**

Both Negative Declarations and EIR's are forwarded to the Planning Commission as part of a project's packet material. The information contained in these documents should be used as a basis for a rendering a decision in conjunction with considerations related to the general plan, zoning code and other city documents as outlined in this handbook. The Negative Declaration or EIR must be certified as adequately identifying a project's environmental effects before the project can be approved by the Planning Commission.

11/8/16 - PC Review Draft

## Chapter 6. PLANNING COMMISSION CONDUCT

### 6.1. The Public Interest

Planning Commissioners, like others who are charged with conducting the public's business, must do so in the "public interest." Unlike a special interest, where a limited number of people would stand to benefit or profit, the public interest represents the maximum number of benefits flowing to society at large and not to selected individuals or groups within society. It is by nature more basic and more fundamental than special interest or individual interest or than the sum of special interests or individual interests.

Planning Commissioners have to determine what constitutes the public interest as decisions are made on conditional use permits, subdivision maps and other matters. The following pointers may help in keeping the public interest foremost in the decision-making process:

1. Remember who the client is. It is not the applicant but the public at large and the interest which that public represents. It is not just the people in the meeting room, but all those who are at home, too. It is everyone that lives in the community, and abides by the Planning Commission's decisions.
2. The question of who benefits from the decision should be asked. Does the applicant benefit at the expense of the public? Does the public benefit? Both?
3. The public interest includes the interests of all members of the community not just the interests of selected members.
4. When citing the public interest as the reason for a particular action, be sure that the public at large (i.e., the whole community) will benefit and not just certain individuals or groups.
5. Decisions made in the public interest should consider, to the extent possible, future as well as current generations.

### 6.2. Legal Aspects of Planning Commission Conduct

Planning Commissioners, like the members of all other public bodies in California, must comply with state laws regarding financial disclosure and public meetings. These laws, the Conflict of Interest Law and the Open Meetings Act, set legal standards for the conduct of public officials. Planning Commissioners must also be aware of two other aspects of their conduct: ex parte contact (actually related to open meetings) and due process. Ex parte contact is basically the attempt to influence a Planning Commissioner outside the public forum. Due process is the procedural fairness that the Planning Commission must show to all parties.

### 6.3. Ethics Training

The statutes governing ethics training requirements are located at Gov. Code section 53234 et seq. Each Planning Commissioner is required to receive two (2) hours of Ethics Training every other year. The City provides the training at no cost to the Commission. Ethics training cover topics including:

- Laws relating to personal financial gain by public servants prohibiting bribery and conflict-of-interest laws.
- Laws relating to claiming perquisites (“perks”) of office, including, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes.
- Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
- Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.
- General ethical principles relating to public service.

### 6.4. Conflict of Interest

The goal of conflict of interest laws is to require public officials to make decisions without being influenced by personal financial interests. Toward this goal, the laws require disclosure of certain private financial interests and disqualification from decision-making under certain circumstances.

Conflict of interest laws balance two competing interests. On one hand, decisions must be made to benefit the public, not private financial interests. At the same time, conflict of interest laws are not designed to insulate officials from making difficult decisions. Making difficult decisions is, after all, one of the primary duties of a public official.

#### 6.4.1. What is a Conflict of Interest?

There are a number of laws which define conflict of interest standards. The Political Reform Act (Government Code section 81000 *et. seq.*) is the most comprehensive. It says:

“No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

The Political Reform Act requires public officials to disqualify themselves on a particular issue if they have conflict of interest. A public official or employee has a conflict of interest when all of the following occur:



**City of Paso Robles  
2017 Planning Commission Handbook**

40

- The official makes, participates in, or uses his official position to influence a governmental decision;
- It is foreseeable the decision will affect a financial interest of the official;
- The effect of the decision on the official's financial interests will be material; and
- The effect of the decision on the official's financial interest will be distinguishable from its effect on the public generally.

**6.4.2. When in Doubt**

The Political Reform Act is quite complex. In practical terms, when officials have an interest in a business, a piece of real property, as source of income related to a matter coming before the Planning Commission, they should consult with the City Attorney prior to the meeting. Also, if a Planning Commissioner lives with 500 feet of a project location coming before the Planning Commission, a conflict of interest is presumed to exist, and the Planning Commissioner should disqualify himself or herself.

**6.4.3. Leave the Room Rule**

When a Commissioner has a conflict of interest, they are required to announce the conflict and physically leave the room for the duration of the item hearing. There are limited exceptions that allow for a Commissioner to speak during public comment. These exceptions should be reviewed with the City Attorney prior to a meeting.

**6.4.4. Effect of Disqualification**

When an official has a conflict, the official must not only disqualify himself from voting, but must also refrain from participating in any debate on the matter. The disqualification must be made on the record.

**6.4.5. Disclosure of Conflict**

It is not "bad" to have a conflict of interest. It is illegal to fail to declare a substantial conflict of interest or to participate in discussions on issues or decisions where such conflict exists. It is in a Planning Commissioner's and the Planning Commission's best interests to avoid public challenges on conflict of interest charges by heading them off in advance.

**6.5. Open Meeting Act – Brown Act**

All meetings and deliberations of the Planning Commission must be open and public as required by the Ralph M. Brown Act, Government Code Section 54950 *et. seq.* This law is also known as the Open Meeting Act, or simply "the Brown Act".

The courts have consistently interpreted the Brown Act broadly to ensure open deliberation and open decision making so the public can be fully informed and maintain contact with their governmental representatives.

**City of Paso Robles  
2017 Planning Commission Handbook**

41

### 6.5.1. Meetings

The following are defined as meeting and subject to the Brown Act requirements:

- Any congregation of a majority of members of the Planning Commission in the same time and place to hear, discuss or deliberate on any matter within the Planning Commission's jurisdiction.
- Use of direct communications, personnel intermediaries, or technological devices (telephone, fax, e-mail) by a majority of the Planning Commissioners to develop a collective concurrence on action to be taken.
- In addition, a series of individual meetings or conversations which involve less than a quorum, but which taken as a whole involve a majority of the Planning Commission members is also considered a meeting for the purposes of the Brown Act.

### 6.5.2. Electronic Communications

Use of electronic communications including email, text messages, social media can create a Brown Act meeting violation. Simply forwarding an email may be a violation. The Commission is strongly urged to refrain from using electronic communications between members.

### 6.5.3. What is Not a Meeting

Attendance by a majority of Planning Commissioners at a conference, such as the League of California Cities, or at an open and publicized meeting organized to address a topic of local community concern such as a Chamber of Commerce forum on housing is not considered a meeting, provided that a majority of Planning Commissioners do not discuss among themselves, specific business within the Planning Commission's jurisdiction. Similarly, attendance of a majority of the Planning Commission at a social event or ceremonial event is not considered a meeting, again provided that a majority of Planning Commissioners do not discuss among themselves, specific business within the Planning Commission's jurisdiction.

### 6.5.4. Brown Act Requirements

In general, the Brown Act requires:

- Posting of the time and place of meetings. (There are also other more notice requirements for planning applications as specified by state law and local ordinance).
- Public comment period. All meetings must allow the public to speak on any item of public interest within the Planning Commission's jurisdiction. In Paso Robles, this occurs at the beginning of the Planning Commission meeting.
- Material distributed to the Planning Commission. Any material, either sent out in the packets, given the Planning Commission at the meeting, or otherwise

**City of Paso Robles  
2017 Planning Commission Handbook**

42

distributed to the Planning Commission becomes part of the “public record” and must be made available to the public.

Also, the Brown Act allows for the removal of disruptive individuals who are willfully preventing the meeting from taking place.

### **6.6. Ex Parte Contact**

Ex parte is a Latin term that means, "from or on one side only." It is related to the Brown Act in that it deals with Planning Commissioners being influenced outside the public forum without the benefit of hearing all sides of an issue.

#### **6.6.1. What is Ex Parte Contact?**

Contacts which occur away from the hearing are known as ex parte and can include telephone calls, informal meetings, lunches or even a casual encounter on a street corner. The essential element of ex parte contact is that someone with a direct interest in a decision before the Planning Commission - an applicant, a representative of an applicant or an opponent of the applicant - is attempting to influence or secure a vote outside the public forum before a Planning Commissioner has had an opportunity to hear all sides of an issue.

Such contacts may be a source of pertinent information not otherwise available to the staff or Planning Commission members but they should not be permitted to influence a member's decision-making before deliberations begin.

#### **6.6.2. Examples of Ex Parte Contact**

Ex parte contact is common for Planning Commissioners because of their visibility in the community and the nature of their work. Discussions with Planning Commission members outside the public forum can be a beneficial way to exchange information and help keep Planning Commissioners informed of residents' attitudes. A distinction must be drawn, however, between contact on general or legislative matters, and contact on questions that involve specific parcels of land or the rights of certain individuals. The following examples show this:

- A paid representative for a developer takes a Planning Commissioner out to lunch in order to persuade him/her to vote for a re-zone. The representative urges the Planning Commissioner commit to a "yes" vote three days before the meeting and before all sides of the question have been heard. What should the Planning Commissioner do?

Citizens have a right to contact their elected and appointed representatives and express their viewpoints. Public officials, on the other hand, have a responsibility to uphold the integrity of their office and maintain it as free of influence as possible. The Planning Commissioner should not make any promises or commitments to the developer's representative. This position should be taken whenever specific parcels of property or the rights of specific individuals are under consideration.

Given the fact that the re-zone will be coming before the Planning Commission, a meeting of the sort described above should be avoided.

- The Planning Commission is scheduled to review the municipality's Capital Improvements Projects list at its next meeting and make recommendations to the City Council. A Planning Commissioner is contacted by a resident who wants changes in the list.

The Planning Commissioner should feel free to ask why the resident believes the list should be changed and to explain his/her own position on the priority ranking of projects. The same position can be taken on other general matters that affect the welfare of the public at large, such as the adoption of a comprehensive plan or recommending amendments to the zoning code.

### **6.6.3. How to Deal with Ex Parte Contact**

The following guidelines should be considered in dealing with ex parte contacts.

- If someone contacts a Planning Commissioner to discuss an issue involving the rights of specific individuals or particular parcels of land, the Planning Commissioner should refrain from stating his/her position and invite the person to present their testimony before the whole Planning Commission.
- If someone persists in offering information but is unwilling to testify before the whole Planning Commission, tell the person to put the information on the record, preferably by sending a letter to City staff. If the person is unwilling to have the information placed on the record.
- Written information on a pending Planning Commission action should be sent to staff for review and/or inclusion in the Planning Commission packets.
- If you make a site visit with or without the applicant, disclose that fact on the record before the meeting begins.
- If you do have ex parte contact with a member of the public, applicant or interested party, disclose that fact on the record before the meeting begins.

Above all, use common sense and good judgment when dealing with applicants and other interested parties outside a public forum.

## Chapter 7. THE PLANNING COMMISSION MEETING

### 7.1. Due Process

According to the courts, local planning decisions do not have to be wise, but they do have to be fair. The Planning Commission must respect equally the rights of all parties who appear before it.

**The important elements of due process are:**

- Adequate, advance notice of meetings;
- Availability of staff reports and other information needed by the public to more fully understand issues;
- The opportunity to be heard at public hearings;
- Full disclosure or the chance to hear, see, or review all the information available to the Planning Commission in its deliberations; and,
- Findings of fact backed up by substantial evidence on the record to support the Planning Commission's decisions.

The Planning Commission has a responsibility to assure that its decisions are fair, impartial and objective, unbiased by even the appearance of having been privately influenced. Excerpts from a Washington State Supreme Court case illustrate the importance of due process and the appearance of fairness. Although not a California case, it clearly illustrates the fairness and impartiality the courts will expect of Planning Commission deliberations.

"Members of Planning Commissions with the role of conducting fair and impartial fact-finding hearings must, as far as practicable, be open-minded, objective, impartial, free of entangling influences and capable of hearing the weak voices as well as the strong." *Buell v. City of Bellingham* (1972)."

### 7.2. Conducting a Planning Commission Meeting

The Planning Commission will conduct basically three types of meetings: regular meetings, special meetings and study sessions. Since no decision can be made in a study session, they are less formal and occur in a more relaxed setting than regular or special meetings. The Planning Commission is not required to accept testimony at a study session nor are any formal actions taken. Study sessions are held to gain a clearer understanding of complex or important issues, to establish a Planning Commission workload, or for some other reason not related to the actual conduct of Planning Commission business.

The Planning Commission has more contact with the public at meetings than at any other time. Thus, the Planning Commission's credibility and effectiveness can be directly affected by the way the public's business is conducted. A Planning Commission that conducts a fair, well-run meeting

will preserve the public's confidence and be able to do productive work. A well-run meeting has the added benefit of being less tiring and less frustrating for Planning Commissioners. This permits the Planning Commission to pay more attention to the business at hand.

These meetings require adequate public notice, a published agenda, minutes of the meeting. All public notice is either mailed and or published in accordance with State law and local codes. Minutes are prepared at each meeting and are then forwarded to the Planning Commission for review and approval at their next meeting.

### **7.3. Chairing the Planning Commission**

The attitude and abilities of the chair are critical to the successful operation of a Planning Commission. A capable chair understands the issues, understands his or her fellow members, can maintain order, and is able to bring the Planning Commission to a decision even on complicated or controversial issues. A person should be named as chair for his or her leadership abilities in addition to having other qualities such as integrity and fairness.

### **7.4. Responsibilities of the Chair**

A chair has two types of responsibilities: those contained in the Planning Commission's rules of procedure and those that are more related to his or her leadership abilities.

Procedural responsibilities include, but are not limited to, the following:

- preside over the meetings of the Planning Commission;
- work with staff in setting and reviewing the agenda; and
- call or schedule special meetings of the Planning Commission.

Other types of responsibilities rest more with the chair's personal abilities, and are not determined by bylaws or other rules of procedure. These include:

#### **7.4.1. Running a meeting.**

It is the chair's responsibility to run an orderly meeting and conduct the Planning Commission's business in a fair and timely manner. Other Planning Commissioners, the staff and the public will look to the chair for leadership.

#### **7.4.2. Maintaining order.**

Do not allow members of the public to clap, cheer, whistle, and so on, either for or against testimony that is being presented or in response to comments by Planning Commission members during their deliberations. The chair should "gavel down" this kind of behavior and run an orderly meeting. Neither should the chair permit members of the Planning Commission to accuse or overtly challenge one another, members of the public, or persons testifying.

**7.4.3. Keeping the business moving.**

The Planning Commission should not endlessly mull over matters, continually request new information, and otherwise delay making a decision when the information needed for doing so has been presented. The chair should move the meeting along by summarizing the facts and the positions presented by Planning Commission members, and bringing matters to a vote. Failure to do so is unfair to the City Council, which may be relying on the Planning Commission's recommendation, and to the applicant, whose proposal may be unfairly delayed by indecision.

**7.4.4. Managing public testimony.**

Testimony from witnesses should be held to a reasonable length of time, particularly if a large number of people want to address the Planning Commission.

Testimony should be pertinent to the matter under deliberation. The chair should also discourage successive speakers from repeating the same testimony over and over again. While there is a need to keep the testimony moving, the Planning Commission also needs to show an interest in what the witnesses have to say. Once the public hearing is closed no one, other than Planning Commission or staff, is permitted to speak! On occasion, the Planning Commission may wish to recall the applicant to clarify remarks for the Planning Commission. However, this does not re-open the public hearing, and no further public testimony is allowed. There may be legal issues if the Planning Commission appears to base a decision on statements made by the public after the public hearing is closed.

**7.4.5. Preventing arguments.**

The chair should prevent sharp exchanges from occurring between Planning Commission members and persons testifying, and between Planning Commission members themselves. He or she should limit the dialogue between Planning Commission members and persons testifying to fact gathering which will contribute to the Planning Commission's decision-making ability. This is important to prevent a loss of the Planning Commission's objectivity and credibility.

**7.4.6. Understanding parliamentary procedure.**

The chair must understand making motions, amendments to motions, the order in which business is conducted, what is or is not debatable, and so on.

**7.4.7. Tying things together.**

This is the ability to take into account public testimony, Planning Commission deliberations, and an understanding of the issue at hand, in guiding the Planning Commission toward a decision. It is based on the chair's ability to discern a position that a majority of the Planning Commission can support and that is fair to the public.

**7.5. Parliamentary Procedure - Roseburg's Rule of Order**

Robert's Rules of Order are often referred to when conducting public meetings. Unfortunately, the book was written for another time and for the purpose of running a parliament. Robert's Rules



of Order is intended for procedure in a complex meeting setting. However, when running a meeting of a seven-member Planning Commission with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Rosenberg's Rules of Order provided in the appendices provides a simplified and recommended procedure for the Paso Robles Planning Commission.

### **7.6. Qualities of a Good Chair**

The ability of the chair to run a meeting is important if the Planning Commission is to get its work done. The qualities of composition for the Planning Commission in general apply equally well to the qualities needed in a chair except Planning Commission members will expect the chair to display leadership skills and run well-organized and purposeful meetings.

The following attributes of a good chair should be considered:

#### **Tact**

The chair must show tact with other members and the public. A rude or insulting chair will reflect poorly on the whole Planning Commission and will alienate other Planning Commissioners and members of the community.

#### **Quick Thinking**

The chair may have to think and act quickly in overseeing the conduct of the Planning Commission's business. This may include summarizing positions, clarifying motions and giving direction to staff based on the differing views of Planning Commission members.

#### **Respect**

A chair whose judgment has been tested and found to be good, whose opinion is sought out, or who has support from diverse elements of the community has earned the respect of his or her peers. This can only help in conducting the Planning Commission's business and enhancing its role in community decision-making.

#### **Speaking Ability**

As the spokesperson, the chair must be able to articulate the Planning Commission's position to the City Council, the public and the media. This includes the ability to explain complex or controversial matters which may be either poorly understood or disputed in the community.

#### **Understanding the Issues**

Of all members, the chair must be able to understand the business before the Planning Commission. Failure to understand an item which the Planning Commission is to act on can lead to confusion and result in poor decision-making. The chair needs to put extra effort into studying the agenda and preparing for the meeting.

### 7.7. Making Motions Tips

When making motions the entire recommended action does not need to be restated. The motion maker can simply refer to the “staff recommendation” or move to adopt resolution A.

### 7.8. Practical Tips for the Planning Commissioner

1. **Become Familiar with the General Plan and Zoning Code** – These documents provide the basis for many of the decisions you will make. Be aware of their contents.
2. **Read Your Staff Report** – A staff presentation will be made for each item on the Planning Commission’s agenda. However, the full details of a project or study can only be ascertained by a review of the packet material.
3. **Visit Project Sites** - Frequently, visiting a project site can give you a much better understanding about a variance, conditional use permit or other requests before the Planning Commission, than merely reading about it in the packet. Become familiar with the project, then visit the site.
4. **Know All Sides of an Issue Before Forming an Opinion** – Review all staff material, related correspondence and consider all testimony given the night of the meeting before forming an opinion.
5. **Rely on Facts, Not Opinions** - This can be hard, but it is very important. For example, if someone tells you the Smith rezone is unwise, that is not a good reason to oppose it. If, however, staff recommendations or public testimony show it would be spot zoning, or violate the general plan, then you have a factual basis for a decision.
6. **Use the Chair to Keep the Meeting Orderly** - Avoid extended one on one conversations with the applicant or public; instead, use the chair to direct questions and comments as appropriate. A simple question, such as “Is the color of the building blue?” with a response from the applicant “Yes.” is fine. However, extended dialogue and debate between a Planning Commissioner and an individual member of the public (or applicant) make it difficult for the chair and Planning Commission to have an orderly meeting. In addition, it may reduce other Planning Commissioners to being spectators instead of participants.
7. **Take Part in Debate** - As a rule, the quality of the Planning Commission's decision-making is improved when all members contribute to the discussion. Also, taking part in discussion lets other Planning Commissioners know a person's analytical and problem-solving strengths (and weaknesses!).
8. **Ask Questions** - You've heard the expression, "there's no such thing as a dumb question." Well, it's true. If you don't ask, who will? If you don't know, how else

will you find out? Don't leave your education on an issue up to chance; take the initiative and find out.

9. **Seek Solutions** - Be a problem-solver. Contribute to debate in a way that will lead to solutions, and not merely add to the difficulty or complexity of a situation.
10. **Focus on Issues, Not Details** - Details are important, but don't get lost in them while trying to resolve an issue. Sometimes it's more comfortable to deal with details when an issue is particularly thorny or difficult, but doing so will not produce answers. You should always strive to understand the essence or substance of the matter you are addressing.
11. **Respect Your Peers** - There is no rule that says Planning Commissioners have to be friends (although that many times occurs), but relationships should be courteous and professional.
12. **Use the Staff** - Staff provides technical assistance. Don't ask staff to make a decision for you; instead, get from them the facts and other information you need to make the best decision you can.
13. **Dealing with Staff** - Don't surprise staff members at a meeting with critical comments. For example, if you have problems with a staff report that appears biased or wrong, contact the staff member beforehand and work out the problem. It is important to maintain a good working relationship with staff.
14. **Being a Planning Commissioner Takes Lots of Time** - The time you actually spend at meetings is only a small part of the time it takes to be a good Planning Commissioner. Be prepared to spend a considerable amount of time remaining informed, active and engaged as a Planning Commissioner.

### 7.9. Planning Application Continuance vs. Denial

In some cases, the Planning Commission offers specific direction to the applicant, with the understanding that the project will be revised consistent with that direction and return to the Planning Commission for approval. In order to allow the project revisions to be made and reviewed by staff, a continuance "to a date uncertain" is the normal motion.

This approach is useful when the applicant is willing to make project revisions. However, if the applicant is unwilling to make any substantial revisions, the continuance will require additional staff work to prepare another administrative report, complete the required public noticing and present the project to the Planning Commission, yet result in the same outcome which would have taken place at the initial Planning Commission hearing - a denial due to the applicant's reluctance to make project revisions which would allow the Planning Commission to make the necessary findings for approval.

This decision, of course, can be appealed to the City Council.

# Attachment 1

**City of Paso Robles  
2017 Planning Commission Handbook**

**50**

The decision to continue or deny is solely a Planning Commission decision. Consent from the applicant is not required. However, the Planning Commission may wish to consider the likelihood that the applicant will actually make project revisions when deciding whether to continue an item. In some instances, the applicant is unwilling to make any revisions; in other instances, major revisions may result which will respond to Planning Commission direction and allow for a motion to approve.

11/8/16 - PC Review Draft

## Chapter 8. MAKING A DECISION AND THE NEED FOR FINDINGS

Planning Commissioners must rely on legal standards and other guidelines in making decisions. These standards may be quite broad, such as constitutional guarantees of equal protection and due process, or they may be much more specific, such as the language contained within the municipality's code of ordinances. This chapter will discuss the importance of building a record, or findings of fact, to justify the Planning Commission's decisions.

### 8.1. Types of Planning Commission Decisions

Planning Commission decisions can be either legislative or adjudicative in nature.

#### 8.1.1. Ministerial Decisions

Ministerial Decisions are made at a staff level and don't require discretionary decision making. Issuance of a simple building permit or business licenses are examples of ministerial decisions.

#### 8.1.2. Quasi-judicial Decisions

Quasi-Judicial decision deals with applying adopted City policy are standards to the review and approval a planning applications like a conditional use permits, development plan or subdivision map.

#### 8.1.3. Legislative Decisions / City Council recommendations

For the Planning Commission, legislative decisions are decisions that make or interpret policy. These include General Plan amendments, zoning reclassifications, specific plans and zoning code amendments. The key element of legislative decisions is that they apply equally (or are meant to apply equally) to everyone in the community, not just to specific groups or individuals.

### 8.2. The Need for Findings

Findings are not needed for legislative decisions, although there are some exceptions that require findings. For example, State law requires specific findings should a city adopt a growth management plan that limits the number of newly constructed housing units.

Findings are required for Quasi-Judicial decisions, which involve over 95% of all the planning applications that the Planning Commission reviews.

### 8.3. Legal Adequacy of Findings

The California Supreme Court has laid down distinct, definitive principles of law detailing the need for adequate findings when a city approves or denies a project while acting in a quasi-judicial, administrative role. In *Topanga Ass'n for a Scenic Community v. County of Los Angeles*, 11 Cal. 3d 506 (1974) the court interpreted Code of Civil Procedure section 1094.5 to require that a city's

decision be supported by findings, and the findings be supported by evidence. The court defined findings, explained their purposes, and showed when they are required.

#### **8.4. Purpose of Findings**

The Topanga court outlined five purposes for making findings, three relate to the decision making process, two relate to judicial (court) functions:

1. To provide a framework for making principled decisions, thereby enhancing the integrity of the administrative process
2. To facilitate orderly analysis and reduce the likelihood the agency will leap randomly from evidence to conclusions
3. To serve a public relations function by helping to persuade parties that administrative decision-making is careful, reasoned, and equitable.
4. To enable parties to determine whether and on what basis they should ask for judicial review and remedies.
5. To apprise the reviewing court of the basis of the agency's decisions.

#### **8.5. Evidence in the Record to Support Findings**

There must be evidence in the record to support the findings. Evidence may consist of staff reports, written and oral testimony, the EIR, exhibits and the like.

Boilerplate findings or findings that do not recite specific facts upon which the findings are based are not acceptable. Similarly, in *Honey Springs Homeowners Ass'n v. Board of Supervisors*, 157 Cal. App. 3d 1122, 1151 (1984) a finding that is made "perfunctorily" and "without discussion or deliberation and thus does not show the ...analytical route from evidence to finding will be struck down".

In summary, there is no presumption that a city's rulings rest upon the necessary findings and that such findings are supported by substantial evidence. Rather, cities must expressly state their findings and must set forth the relevant facts supporting them.

#### **8.6. Findings in the Staff Report**

Findings are referred and attached to the Staff Report of all public hearing. These include findings for the environmental document or exemption, consistent with the as requirements by the California Environmental Quality Act. The other findings are related to the Paso Robles Municipal Code and the findings required for certain types of planning approvals: conditional use permits, development plan or subdivision map.

In some cases (this is rare), alternative findings are provided should you wish to take an action different than that recommended by staff. Alternative findings are usually provided for projects

which involve substantial public controversy and/or have a relatively equal potential of being approved or denied.

If alternative findings are not provided as part of the Administrative Report, staff can normally craft findings for an action different than that recommended by staff, based on statements made by the Planning Commission. However, these statements must relate to the specific findings for the requested applications.

### **8.7. Denial Findings**

Denial of any quasi-judicial entitlement must be related to a specific finding. The Planning Commission must identify the find of denial in the motion to deny a permit. Failure to make a finding for denial constitutes a violation of due-process for the applicant.

11/8/16 - PC Review Draft



## Chapter 9. CONDITIONS OF APPROVAL

### 9.1. Legal Authority to Impose Conditions of Approval

Conditions of approval (“conditions”) are required of most planning entitlements. These conditions are made part of the staff report provided to the Planning Commission on every item scheduled for hearing. The authority to impose conditions is derived from several different sources:

#### 9.1.1. State and Local requirements

For example, conditions of approval that require automatic irrigation of landscape areas are based on sections of the zoning code that require this type of irrigation. These types of requirements would be mandatory, whether they are listed as a condition or not, since they are required by the Paso Robles Municipal Code (of which the Zoning Code is a part). These requirements are listed as conditions of approval to insure that the Planning Commission, applicant, public and City staff know what will be required should the project be approved.

#### 9.1.2. CEQA Mitigation Measures

These types of conditions are based on mitigation measures included in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA).

#### 9.1.3. Authority Granted by State and Local Ordinance

For example, the City’s zoning code does not have standardized hours of operation for car washes, although they do require a Special Use Permit to be reviewed and approval by the Planning Commission. However, the zoning code does require a finding that the proposed special use “will not cause injury or disturbance of adjacent property”. As a result, the Planning Commission could limit the hours of operation if the Planning Commission found that the reduction in hours “would prevent injury or disturbance of adjacent property” by reducing noise impacts late at night and subsequently impose a condition to that effect.

#### 9.1.4. Design guidelines

There are a number of design guidelines that the City of Paso Robles has adopted by resolution. These guidelines may provide the basis for conditions of approval related to design. For example, a single family dwelling second story addition may have a condition added requiring a reduction in the roof pitch, if the Planning Commission finds that such a requirement is necessary to conform with the City’s design guidelines.

### 9.2. Timing of Conditions

The timing of conditions varies. Some conditions may need to be shown on the building permit plans and subsequently verified in the field. Other conditions may relate to the construction phase

of the project. There are also use related conditions which are required to be adhered to for the entire life of the project.

The timing of all conditions is included in the conditions list attached to the AR. For example, a number of conditions would be grouped under the following heading:

- “The following conditions shall be addressed on the construction plans submitted for any BUILDING PERMIT and/or SITE DEVELOPMENT PERMIT and/or shall be met prior to the issuance of said permit(s).”

This heading indicates that conditions need to be shown on the building permit drawings. The condition would subsequently be verified during field inspection. The Planning Division standard condition regarding “true divided light” would fit under this heading.

Another example of condition timing would be those conditions related to construction activities:

- “The following conditions shall be complied with AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.”

This heading includes conditions related to construction, such as the need to provide construction worker parking, designation of truck haul routes, and indicating permitted hours of construction.

The above two examples illustrate the range of timing used to check adherence with conditions of approval. There are a number of such headings; you can check the conditions of approval attached to each AR to find out what the timing for implementation of each condition.

### **9.3. Who is Responsible for Implementing Conditions?**

Each condition of approval will include a City department or division responsible for implementation of the condition. The responsible City department or division is noted in (parenthesis) at the end of the condition. A couple of examples:

- SEWER CLEAN-OUT - The applicant shall install a standard sewer lateral clean-out in accordance with City Standard Drawing No. 3-1-101. (PUBLIC WORKS)
- FIRE ALARM SYSTEM – This structure will be required to be provided with a Fire Alarm System in accordance with the California Fire Code Section 1007. Separate application and permits are required to be obtained by a contractor licensed to perform such work. (FIRE)

In these two instances, the Public Works Department and Fire Department, respectively, are responsible for implementation of the condition of approval.

### **9.4. Mitigation Measures as Conditions**

As noted in Chapter 6, The California Environmental Quality Act, mitigation measures identified in environmental documents may allow a Negative Declaration to be prepared instead on an Environmental Impact Report (EIR), and are also used as a basis for findings when approving an EIR that identifies mitigation measures.

As a result, those conditions which are derived as mitigation measures cannot be changed without first examining whether it affects the validity of the environmental document. For example, if a mitigated Negative Declaration is prepared, contingent upon a mitigation measure requiring signalization of a poorly performing intersection, eliminating the condition which requires this signalization would likely result in a significant, unmitigated impact, and would require an EIR to then be prepared.

All mitigation measures included as conditions are marked with an asterisk\*. Additionally, the following language is provided at the end of the conditions list:

- **MITIGATION MEASURE** - This measure mitigates adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

### **9.5. Legal Considerations in Imposing Conditions**

The City must have a legal authority to impose any conditions of approval, as noted above (see “Legal Authority to Impose Conditions of Approval” at the beginning of this chapter).

Conditions of approval requiring payment of a fee, dedication of land, or funding of a public improvement are often referred to as “exactions”. Both the California Supreme Court and the United States Supreme Court have long held that the regulation of land use, including requirements for exactions and imposition of conditions, does not constitute a “taking” of property if the regulation substantially advances a legitimate governmental interest and does not deny the property owner economically viable use of the land.

For conditions imposed pursuant to City Standards of uniform applicability, courts have also held that cities may impose conditions on development so long as the conditions are reasonable and there exists a sufficient legal nexus (connection) between the condition as imposed and the burden the proposed development will place on the community.

For ad hoc conditions, courts will consider both whether there is a “reasonable relationship” and whether the exaction is roughly proportional” to the impacts of the proposed project.

There is no single, precise rule that is applied by the courts to determine whether or not a dedication or fee condition is reasonable and thus valid. Rather, the courts use an ad hoc analysis and look at the facts of each individual case.

Two court cases help to illustrate the concepts of “nexus” and “rough proportionality.”

### **9.6. Nollan v California Coastal Planning Commission (1987) – “Reasonable Relationship”**

In this case, the California Coastal Planning Commission approved the construction of a two-story beach house, subject to the condition that the owners dedicate a public access easement across a

portion of their property along the beach. The easement purportedly was required to assist the public in viewing the beach and in overcoming a perceived “psychological barrier” to using the beach.

The owner challenged the easement, claiming that the condition violated the Fifth and Fourteenth Amendments’ prohibition against taking private property for public use without just compensation.

The Court held that, although protection of the public’s ability to see the beach was a legitimate governmental interest, no nexus or connection existed between the identified impact of the project (obstruction of the ocean view) and the easement condition (physical access across a beach).

Therefore, the exaction constituted a taking of private property without just compensation. The Court did, however, state that requiring the dedication of a viewing spot on the *Nollan* property might have been legal since there would be a nexus.

The *Nollan* Court stressed the importance of a nexus or connection between the dedication condition and the burden being imposed by the new development. Since the Court found that no such nexus or connection existed, the decision to impose a condition requiring a public access easement was not a proper land use decision, and therefore amounted to an unconstitutional taking of property.

### **9.7. Dolan v City of Tigard (1994) – “Rough Proportionality”**

Florence Dolan owned a store located in the business district of Tigard, Oregon along Fanno Creek, which flows along a boundary of the property. Her proposed plans called for nearly doubling the size of the store and paving a 39-space parking lot.

The Planning Commission granted Dolan’s permit application with a condition that she dedicate the portion of her property lying within the 100-year flood plain for improvement of a storm drainage system along Fanno Creek, and that she dedicate an additional 15-foot strip of land adjacent to the flood plain as a pedestrian/bicycle pathway. The Planning Commission made a series of findings concerning the relationship between the dedicated conditions and the projected impacts on the Dolan property.

After appeals to the Tigard Land Use Board of Appeals, court hearings with the Oregon Court of Appeals and the Oregon Supreme Court, the case reached the United States Supreme Court.

In a 5-4 decision, the United States Supreme Court held for the first time that, in making an adjudicative decision, a city must demonstrate “rough proportionality” between the conditions to be imposed on a development permit and the development’s impact.

The Court reviewed the two required dedications and found that the city had not met its burden. After analyzing the findings upon which the city relied, the Court stated that the city had not shown the “required reasonable relationship” and “rough proportionality” between the floodplain easement and petitioner’s proposed new building.

Noting that the Dolan's project would have increase the amount of imperious surface, which in turn would increase storm water runoff, the Court determined that the City could have required that Dolan simply keep the area open rather than requiring complete dedication.

Also, the court said "on the record before us, the city has not met its burden of demonstrating that the additional number of vehicle and vehicle trips generated by the petitioner's development reasonably relate to the city's requirement for dedication of pedestrian/bicycle easement."

### **9.8. Planning Commission Considerations**

City staff reviews all conditions of approval as well as all enabling resolutions and ordinances to insure that all constitutional tests are being met; this involves coordination with the City Attorney's office on a continual basis. All conditions forwarded to the Planning Commission are those which City staff find fully meet all constitutional requirements and reflect recent case law, including *Nollan* and *Dolan* as well as many others.

Should questions regarding conditions arise at a Planning Commission meeting, they should be directed to staff for an appropriate response.

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## Chapter 10. THE STAFF REPORT

A staff report is provided to the Planning Commission for virtually every public hearing or study session item on the agenda. The staff report for upcoming Planning Commission meetings are hand delivered to the Planning Commission on the Thursday before the Tuesday meeting.

This chapter will describe the basics of an staff report, and its use by the Planning Commission.

### 10.1. Staff Report Contents

Typical Staff Reports include the following:

#### 10.1.1. Title Block

At the top of the first page you'll find the date of the meeting, the application number and the name and address of the applications. In addition, the name of the planner is listed; you can contact that person directly should you have any questions about the staff report.

#### 10.1.2. Facts

The report will list facts and background information relative to the application.

#### 10.1.3. Options

A list of possible options for Planning Commission consideration will be listed.

#### 10.1.4. Analysis and Conclusion

This section will provide a summary and analysis of the following:

- Project Summary
- Site Design Issues
- Architecture and Appearance
- Neighborhood Compatibility
- CEQA issues
- General Plan / Zoning Consistency

#### 10.1.5. Fiscal Impact

The project's long and short term impact on the City budget will be identified.

#### 10.1.6. Recommendation

The planning staff's recommendation will be included in this section. Should you wish to follow the recommendation, you can refer to staff's recommendation in the motion.

### **10.1.7. Attachments**

These items provide background information for making a decision and the resolutions of approval. Common attachments include:

- Vicinity map.
- Project plans (reduced size). Full size plans are also forwarded to the Planning Commission.
- Environmental document (this may include special studies, such as a traffic study).
- Letters from the public.
- Resolutions of Approval with findings and conditions of approval

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## City of Paso Robles Planning Commission Agenda Report

From: Staff member

Subject: Application number  
Location  
Applicant  
[6-20 words, starting with providing a general description/overview, alerting members of the public as to both (1) the subject and (2) possible actions by the Planning Commission

Date: , 2016

---

### Facts

1. List of facts. Write this section to easily convert to the “Whereas” section of a resolution, if a resolution is needed.

### Options

In list form, name and provide a brief description of the primary options, including:

1. The recommended option;
2. The next best option;
3. The approach that some other interest, will ask the Planning Commission to take;

### Analysis and Conclusions

#### Project Summary

Project Description

#### Site Design Issues

#### Architecture and Appearance

#### Neighborhood Compatibility

#### CEQA issues

#### General Plan / Zoning Consistency

#### 1. Option 1

For each of the primary options, briefly identify the key plusses and the key minuses. Objective data are always best, but often not possible or definitive

#### 2. Option 2

Discussion of option 2

### Fiscal Impact

Not just this year, but also in future years.

### Recommendation

### Attachments

1. (attachment list)

**10.2. Items Not Included as Part of the Staff Report**

Items submitted after the packets are delivered will be emailed to the Planning Commission and provided as hard copies at the meeting. These items are usually letters from the public. In some cases they may include a memo from staff correcting or clarifying information in the previously distributed Staff Report.

**10.3. More About the Planning Staff Recommendation**

In the vast majority of instances, staff is recommending approval of projects brought before the Planning Commission. This is the result of planning staff working with the applicant and Development Review Committee to insure that all city codes, policies, regulations and guidelines are met. In addition, some cases require that staff insure all previously identified public and Planning Commission issues have been addressed. This sometimes involves the staff facilitating and mediating discussions between the applicant and neighboring property owners.

Denial is sometimes, although very infrequently, recommended. However, in some cases, alternative findings for approval, as well as conditions of approval are also forwarded as part of the Staff Report. These items are included because staff finds that a case can be made for project approval, albeit not as compelling a case as can be made for the staff recommendation.

In rare instances, denial is recommended and no alternative findings and no conditions of approval are included. This is the case when staff has met with the applicant to discuss plan revisions, and the resulting plans clearly do not meet the applicable city codes, policies, regulations and guidelines. This is unusual; this approach is only used when the applicant has repeatedly been unwilling to make project revisions which would allow staff to make the mandatory findings for approval, even as an alternative motion.

Should the Planning Commission wish to approve such a project, which is entirely within the Planning Commission's authority, staff will take comments made by the Planning Commission and prepare alternative approval findings and conditions of approval, normally for adoption at a subsequent meeting.

## Chapter 11. Sources:

1. *2002 San Mateo Planning Commission Handbook*, City of San Mateo, California January 6, 2014.
2. *1997 Planning, Zoning and Development Laws*, Governor's Office of Planning and Research, 1997
3. *Alaska Planning Commission Handbook*, Department of Community and Economic Development Municipal and Regional Assistance Division, Pat Poland, Director, Project Manager: Peter Freer, Local Government Specialist V
4. *Curtin's California Land Use and Planning Law* 2002 (Twenty Second) Edition, Daniel J. Curtin Jr., Cecily
5. T. Talbert, 2002
6. *The Planning Commissioner's Handbook*, League of California Cities, 1995
7. *CEQA – California Environmental Quality Act, Statutes and Guidelines*, Governor's Office of Planning and Research, 1997

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## Chapter 12. APPENDICES

### 12.1. Appendix 1 - Planning Commissions Procedures

#### 12.1.1. WELCOME!

For those members of the general public who are attending their first Planning Commission meeting, the following general information is offered.

Planning Commissioners are appointed by the City Council and serve, without pay, for a four-year term. The Planning Commission acts under the policies and ordinances of the City Council. Your presence and participation are important toward furthering an informed and responsible government

#### 12.1.2. Meeting Schedule

Meetings are held on the 2<sup>nd</sup> and 4<sup>th</sup> **Tuesdays** of each month. The public hearings begin at 7:30 p.m. in the City Council Chambers. (Note: Special meetings are occasionally scheduled and the public is invited to these meetings). Anyone wishing to address the Planning Commission is asked to give their name and address, in writing, to the Recording Secretary. Forms for this purpose are available at the public microphone and from the Recording Secretary. Agendas for each meeting are available in the lobby and on the city website.

#### 12.1.3. Planning Commission Meetings Process

Prior to hearing the first agenda item, the Planning Commission will hold a Public Comment Period for persons wishing to speak on any subject **not** on the agenda.

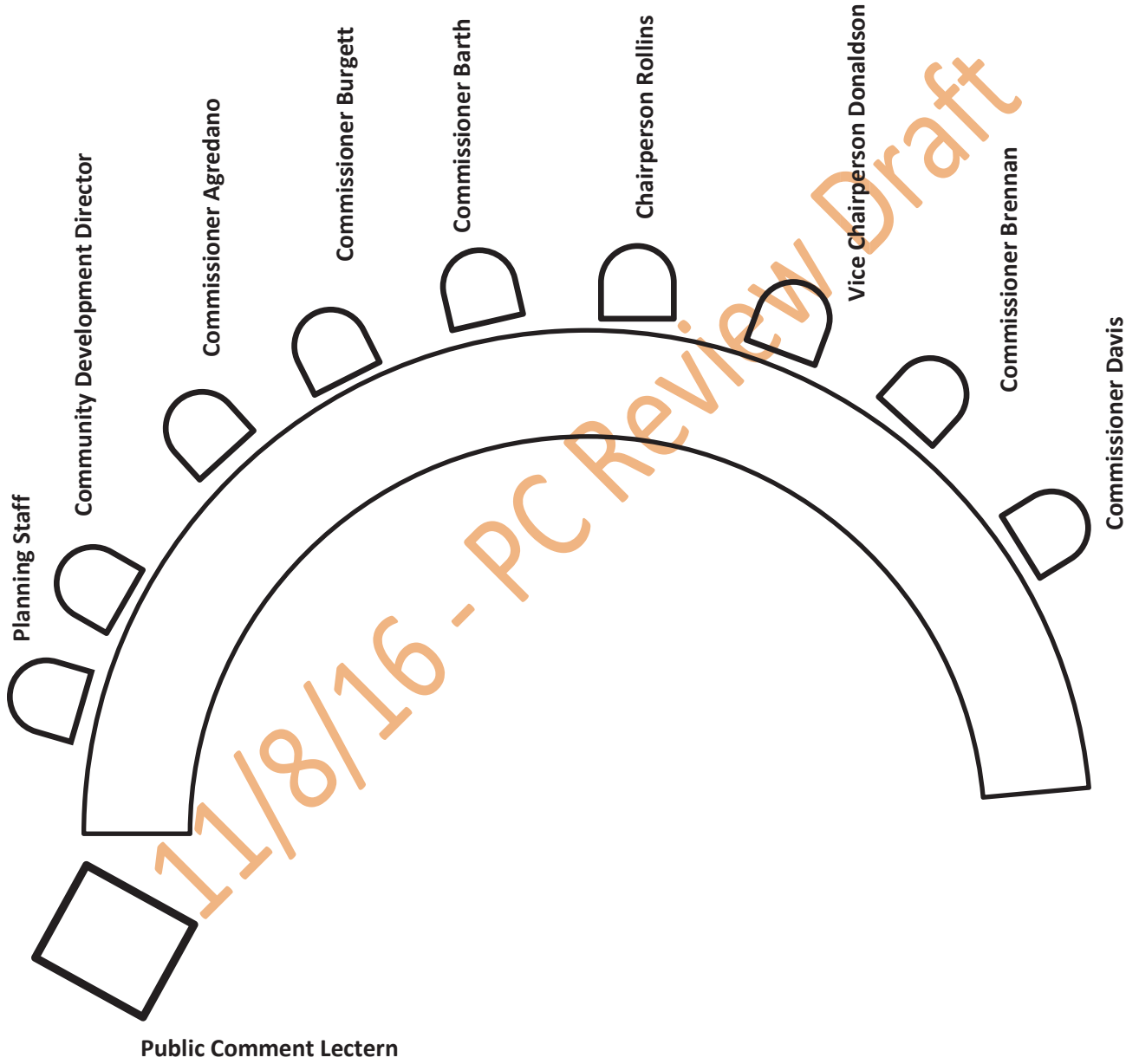
After the Public Comment Period, the Planning Commission will hear the first item listed on the agenda. All items heard by the Planning Commission follow the procedure below:

1. **The Planning Commission Chair** announces the item to be heard.
2. **Staff presentation.** City staff makes a presentation. After the presentation, Planning Commissioners may ask questions of staff.
3. **Applicant presentation.** Project applicant makes a presentation. After the presentation, Planning Commissioners may ask questions of the project applicant.
4. **Commission Question**
5. **Public Testimony:** The Planning Commission Chair opens the public hearing.
  - **Speakers.** If you wish to speak, please fill out a “Request to Speak” form available in the front of the City Council Chambers. Give it to the Recording Secretary. Your name will be called in the order received.

Please use the microphone at the front of the City Council Chambers and state your name and address for the public record.

- **Number of Speakers:** If you agree with the points made by the previous speaker, you may so elect to have a spokesperson for your group.
  - **Previously submitted materials.** The Planning Commission reviews all letters, emails and correspondence from the public. All of these items are part of the public record. The Planning Commission is interested in hearing your comments, but it is not necessary to read your correspondence, verbatim, into the record. You may choose to summarize your major points.
  - **Courtesy.** Please do not clap, cheer, interrupt, whistle, etc., neither for or against testimony that is being presented, as the Planning Commission wishes to extend courtesy to all speakers. Please also set cell phones & pagers to vibrate before the meeting begins.
6. **Public Testimony Closed.** After all members of the public have had an opportunity to speak, the Planning Commission Chair will close the public hearing. AT that time, testimony is limited to the Planning Commission and City Staff. However, on occasion, the Planning Commission may recall the applicant to answer questions.
  7. **Planning Commissioner Deliberations.** After all Planning Commission questions have been answered, the Planning Commission will deliberate and render a decision. Some decisions are final with the Planning Commission unless appealed to the City Council, other decisions are recommendations to the City Council for their consideration at a future City Council hearing. The Chair will announce the type of decision after the vote is taken. Please note: “study session” items are for discussion purposes only, **no** vote is taken; instead comments are given back for consideration and subsequent plan revision before the project comes back repeating comments. You may also elect to have a spokesperson for your group.
  8. **Motion and Vote**

### 12.1.4. 2016 Planning Commission Seating Chart



## 12.2. Appendix 2 - Roseburg's Rules

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## 12.3. Appendix 3 - Planning Commission Bylaws

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## 12.4. Appendix 4 – Planning Acronyms

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**12.5. Appendix 5 - Paso Robles Municipal Code - Planning Commission**

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# Rosenberg's Rules of Order

REVISED 2011

*Simple Rules of Parliamentary Procedure for the 21st Century*

*By Judge Dave Rosenberg*



## MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

### About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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### ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

TABLE OF CONTENTS

About the Author .....ii

Introduction ..... 2

Establishing a Quorum..... 2

The Role of the Chair..... 2

The Basic Format for an Agenda Item Discussion ..... 2

Motions in General ..... 3

The Three Basic Motions..... 3

Multiple Motions Before the Body..... 4

To Debate or Not to Debate..... 4

Majority and Super-Majority Votes ..... 5

Counting Votes..... 5

The Motion to Reconsider..... 6

Courtesy and Decorum ..... 7

Special Notes About Public Input ..... 7

## INTRODUCTION

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The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

### Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

### The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:



**First**, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

**Second**, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

**Third**, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

**Fourth**, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

**Fifth**, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

**Sixth**, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

**Seventh**, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

**Eighth**, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

**Ninth**, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

**Tenth**, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

## Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . .”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion**. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

**The motion to amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

**The substitute motion.** If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

**First**, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

**Second**, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

**Third**, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

**Motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**Motion to limit debate.** The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

### Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. 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.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

### Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?*

*Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

### The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.



### 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. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always 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 focuses on the item and the policy in question, not 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, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted 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, “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, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

### Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.



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**Amendment 1 - 2015**

**ARTICLE I - THE COMMITTEE**

Section 1: Name of Committee

The name of the Committee shall be the PLANNING COMMISSION Committee. (hereinafter referred to as the PC).

Section 2: Purpose

The PC serves at the pleasure of the City Council as a means to aid the City Council in gathering public input by providing a forum through which private citizens may advise the City Council of the City of Paso Robles (“Agency”) on matters relating to in the City of Paso Robles. In order to accomplish that purpose, the Advisory Body may consult with and advise the Agency on those matters which deal with:

- a.
- b.
- c.
- d.

The PC shall be and remain established following the adoption of these Bylaws unless otherwise abolished by an affirmative vote of the majority of the City Council.

Section 3: Membership

**a. Membership Categories and Qualifications.**

To be eligible for membership on the PC, a person must be either a:

- (1) Resident: To qualify under this category, the person must either own or occupy a residential dwelling located within the City.
- (2) Business Owner: To qualify under this category, the person or the legal entity, which the person represents, must present satisfactory evidence of ownership and operation of a business within the City.
- (3) Representative of Existing Community Organization: To qualify under this category, the person must be appointed to serve as a representative member by an existing nonprofit corporation or association of persons and/or entities which has its headquarters or a site office within the City or has a substantial number of constituents who are persons and/or entities who reside or conduct business in the City formed for the purpose of



BYLAWS OF THE PASO ROBLES PLANNING COMMISSION  
 Adopted September 15, 2015 - City Council resolution 15-125

serving the community and generally recognized by persons within the City as a Paso Robles community organization.

- (4) Other: Non-residents may be considered/appointed so long as a majority of the Advisory Body are residents as provided in Section 3.a.1-3 above.

**b. Open Membership**

Criteria and selection for membership shall not discriminate based upon sex, race, religion, creed, color, national or ethnic origin, or any other classification protected by law.

**c. Total Membership & Term Of Appointment.**

The total membership of the PC shall be seven (7). A member’s regular term of appointment shall be 3 years.

- (1) No person shall be eligible for appointment for more than three consecutive terms, exclusive of prior appointment to fill an unexpired term of office.
- (2) Persons who have served three full consecutive terms may be reappointed following a one-term absence.
- (3) Appointees shall serve on only one Council Advisory Body/Commission at a time.

**d. Member Code of Ethics**

Committee members shall adhere to the City Council’s Code of Ethics (Appendix).

Section 4: Conflict of Interest

- a. No member shall participate in any decision which directly or indirectly affects his or her property or economic interests in a manner which is distinguishable from the effect on the City as a whole or his or her interests in common with others similarly situated.
- b. Committee members shall not engage in any *ex parte*<sup>1</sup> communication with any member of the City Council, commission, board or committee regarding any quasi-judicial<sup>2</sup> matter pending, or reasonably expected to come, before such a body.

Section 5: Termination of Membership.

Membership in the PC shall terminate in the event that:

- a. The member is no longer a Resident, Paso Robles Business Owner, or a representative of an existing Paso Robles Community Organization; or

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<sup>1</sup> *Ex parte* communication is any oral or written communication that is intended, or is reasonably calculated, to influence decisions.

<sup>2</sup> *Quasi-judicial* matter is the appeal of any employee discipline or grievance, or a proceeding to approve or revoke any license, permit or project..

- b. The member shall not be, or shall no longer be, a member of that membership category from and for which he or she was elected or appointed; or
- c. The member shall have acted in violation of Section 9 of Article III of these Bylaws.
- d. The member shall have served three consecutive full terms.

Section 6: Removal of Members.

A member may be removed by an affirmative vote of a majority of the City Council, if, after a hearing, it is found and determined that any one of the grounds for termination specified in Section 5 of this Article I exists.

Section 7: Resignation

Any PC member may resign at any time by giving written notice to the Chairperson, who shall forward such notice to all members of the Advisory Body and the Agency. Any such resignation will take effect upon receipt or upon any date specified therein. The acceptance of such resignation shall not be necessary to make it effective.

Section 8: Filling of Vacancies

In the event of a vacancy on the PC, the City Council shall select an individual to fill such vacancy as soon as reasonably practicable. New members must meet the qualifications set forth in Section 3 of Article I.

Section 9: Remuneration

Members shall serve without pay except for reimbursement for travel expenses to meetings outside of the City.

**ARTICLE II - OFFICERS**

Section 1: Officers

The officers of the PC shall consist of a Chairperson and a Vice Chairperson, who shall be elected in the manner set forth in this Article II.

Section 2: Chairperson

The Chairperson shall preside at all meetings of the PC, and may submit such agenda, recommendations and information at such meetings as are reasonable and proper for the conduct of the business affairs and policies of the Advisory Body. The Chairperson may sign documents necessary to carry out the business of the PC.

Section 3: Vice-Chairperson

The Vice Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson. In the event of the death, resignation or removal of the Chairperson, the Vice Chairperson shall assume the Chairperson's duties until such time as the PC shall elect a new Chairperson.

Section 4: Additional Duties

The officers of the PC shall perform such other duties and functions as may from time to time be required by the Advisory Body, these Bylaws, or other rules and regulations, or which duties and functions are incidental to the office held by such officers.

Section 5: Election

The Chairperson and Vice Chairperson shall initially be elected from among the members of the PC at the Advisory Body's first regular meeting. Thereafter, the Chairperson and Vice Chairperson shall be elected from among the members of the Advisory Body annually. Such officers shall hold office for one year following their election and until their successors are elected and in office. Any such officer shall not be prohibited from succeeding him or herself, but no person shall be elected as an officer for more than three consecutive terms.

Section 6: Removal of Officers

Upon an affirmative vote by a majority of the members present at a regular or special meeting of the PC at which a quorum is present any officer may be removed from office, and a successor elected pursuant to Section 7 of this Article II.

Section 7: Vacancies

Should the offices of the Chairperson or Vice Chairperson become vacant, the members shall elect a successor from among the PC members at the next regular or special meeting, and such office shall be held for the unexpired term of said office.

**ARTICLE III - MEETINGS**Section 1: Regular Meetings

The PC shall meet regularly on the 2nd and 4th Tuesday of each month, at the hour of 6:30 PM (effective October 27, 2015), at Conference Center, 1000 Spring Street, Paso Robles, CA. In the event that the regular meeting date shall be a legal holiday, then any such regular meeting shall be held on the next business day thereafter ensuing that is not a legal holiday. A notice, agenda and other necessary documents shall be delivered to the members, personally or by mail, at least seventy-two (72) hours prior to the meeting.

Section 2: Special Meetings

Special meetings may be held upon call of the Chairperson, or an affirmative vote by a majority of the members present at a regular or special meeting of the PC at which a quorum is present, for the purpose of transacting any business designated in the call, after notification of all members by written notice personally delivered or by mail at least twenty-four (24) hours before the time specified notice for a special meeting. At such special meeting, no business other than that designated in the call shall be considered.

Section 3: Adjourned Meetings

Any meeting may be adjourned to an adjourned meeting without the need for notice requirements of a special meeting, provided the adjournment indicates the date, time and place of the adjourned meeting. PC members absent from the meeting at which the adjournment decision is made shall be notified by the Chairperson of the adjourned meeting.

Section 4: All Meetings to be Open and Public

All meetings of the PC shall be open and public to the extent required by law. All persons shall be permitted to attend except as otherwise provided by law.

Section 5: Posting Agendas/Notices

The City Staff member assigned to the PC or his or her authorized representative, shall post an agenda for each regular meeting or a notice for each special meeting containing a brief description of each item of business to be transacted or discussed at the meeting together with the time and location of the meeting. Agendas/notices shall be posted at the Paso Robles City Library and Police Department at least seventy-two hours in advance of each regular meeting and at least twenty-four (24) hours in advance of each special meeting. The Staff Member shall maintain a record of such posting.

Section 6: Right of Public to Appear and Speak

At every regular meeting, members of the public shall have an opportunity to address the PC on matters within the Advisory Body's subject matter jurisdiction. Public input and comment on matters on the agenda, as well as public input and comment on matters not otherwise on the agenda, shall be made during the time set aside for public comment; provided, however, that the Chairperson may direct that public input and comment on matters on the agenda be heard when the matter regularly comes up on the agenda. The Chairperson may limit the total amount of time allocated for public discussion on particular issues and/or the time allocated for each individual speaker.

Section 7: Non-Agenda Items

Matters brought before the PC at a regular meeting which were not placed on the agenda of the meeting shall not be acted upon by at that meeting unless action on such matters is

permissible pursuant to the Ralph M. Brown Act (Gov. Code §54950 et seq.). Those non-agenda items brought before the Advisory Body that the PC determines will require consideration and action, and where action at that meeting is not so authorized, shall be placed on the agenda for a future meeting once a City staff report concerning the matter is prepared.

#### Section 8: Quorum

The powers of the PC shall be vested in the members thereof in office from time to time. Four of the PC members then in office shall constitute a quorum for the purpose of conducting the Committee's business, exercising its powers and for all other purposes, but less than that number may adjourn the meeting from time to time until a quorum is obtained. An affirmative vote by a majority of the members present at a regular or special meeting at which a quorum is present shall be required for approval of any questions brought before the PC.

#### Section 9: Unexcused Absences

If a member shall be absent without the consent of the Advisory body from three (3) meetings, whether regular or special, within six (6) consecutive calendar months, such absence shall result in the termination of the membership of the absenting member. A member's absence shall be excused if, prior to the meeting from which said member will be absent, said member notifies the Chairperson of his or her intent to be absent and the reasons therefore; provided, however, that a member shall be entitled to only two (2) excused absences within twelve (12) consecutive calendar months. At each meeting, after the roll has been called, the Chairperson shall report to the Advisory Body the name of any member who has so notified him or her of his or her intent to be absent and the reason for such absence.

#### Section 10: Order of Business

All business and matters before the PC shall be transacted in conformance with the City Council's established practice.

#### Section 11: Minutes (Action)

Minutes of the PC shall be prepared in writing by the City staff member assigned to the Advisory Body. Copies of the minutes of each meeting shall be made available to each member and the Agency. Approved minutes shall be filed in the official book of minutes of the PC and forwarded to the City Council for information.

#### Section 12: Recommendations to City Council.

Recommendations of the PC to the City Council shall be prepared in writing by the City staff member assigned to the Advisory Body. Recommendations may be presented to the City Council during a public meeting once the assigned staff prepares a staff report

summarizing key facts, analysis, cost/benefit consideration, fiscal impact, and policy implications and options, and the report has been reviewed by the City Manager. The official minutes of the PC documenting recommendation(s) shall be attached to the staff report.

**ARTICLE IV - REPRESENTATION BEFORE PUBLIC BODIES**

The Chairperson, the Vice-Chairperson in the Chairperson's absence or a member of the PC, may make official representations on behalf of the Committee before the Agency and/or the City Council if so specifically designated by the Advisory Body. The PC may present information to other public bodies with the affirmative vote of a majority of the City Council.

**ARTICLE V - COMMITTEES**

The PC may establish any standing and/or special committees it deems necessary consistent with, and to fulfill, its stated purpose as established in Section 2 of these Bylaws.

**ARTICLE VI - AMENDMENTS**

These Bylaws may be amended upon an affirmative vote by a majority of the City Council.

**APPENDIX**

**CODE OF ETHICS**

PREAMBLE

The residents and businesses of Paso Robles are entitled to have fair, ethical and accountable local government. Such a government requires that:

- ▶ Public officials comply with both the letter and spirit of the laws and policies affecting operations of the government;
- ▶ Public officials be independent, impartial and fair in their judgment and actions;
- ▶ Public office be used for the public good, not for personal gain; and
- ▶ Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Paso Robles City Council has adopted this Code of Ethics to encourage public confidence in the integrity of local government and its operation.

PUBLIC INTEREST

Advisory Body Members will work for the common good of the people of Paso Robles and not for any private or personal interest, and they will endeavor to treat all persons, claims and transactions in a fair and equitable manner.

Advisory Body Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties.

CONDUCT

Advisory Body Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of others.

Advisory Body Members shall perform their duties in accordance with the processes and rules of order established by the City Council.

Advisory Body Members shall inform themselves on public issues; listen attentively to public discussions before the body; and focus on the business at hand.



## BYLAWS OF THE PASO ROBLES PLANNING COMMISSION

Adopted September 15, 2015 - City Council resolution 15-125

Advisory Body Members shall base their decisions on the merits and substance of the matter at hand.

Advisory Body Members shall publicly share substantive information that is relevant to a matter under consideration that they may have received from sources outside of the public decision-making process.

CONFLICT OF INTEREST<sup>3</sup>

Advisory Body Members shall not use their official positions to influence government decisions in which they have a financial interest, or where they have an organizational responsibility or personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and, if they have a conflict of interest regarding a particular decision, refrain from participating in that decision, unless otherwise permitted by law.

Advisory Body Members shall not take advantage of services or opportunities for personal gain, by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

Advisory Body Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

Advisory Body Members shall not use public resources not available to the public for private gain or personal purposes.

Advisory Body Members shall not appear on behalf of the private interests of third parties before the City Council or any board, commission, committee or proceeding of the City.

Advisory Body Members shall represent the official policies and positions of the City Council to the best of their ability. When presenting their personal opinions and positions, members shall explicitly state they do not

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<sup>3</sup> State laws governing conflicts of interest are written to ensure that actions are taken in the public interest. These laws are very complex. Councilmembers should consult with the City Attorney or the Fair Political Practices Commission for guidance in advance.

BYLAWS OF THE PASO ROBLES PLANNING COMMISSION  
Adopted September 15, 2015 - City Council resolution 15-125

represent the Council or the City.

BYLAWS OF THE PASO ROBLES PLANNING COMMISSION  
Adopted September 15, 2015 - City Council resolution 15-125

Advisory Body Members shall refrain from using their position to unduly influence the deliberations or decisions of City commissions, boards or committees.

POLICY ROLE

Advisory Body Members shall respect and adhere to the Council-Manager structure of Paso Robles City government as provided in State law and the Municipal Code.

Advisory Body Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

COMPLIANCE & ENFORCEMENT

Advisory Body Members themselves are primarily responsible for assuring they understand and meet the ethical standards set forth herein.

BYLAWS OF THE PASO ROBLES PLANNING COMMISSION  
 Adopted September 15, 2015 - City Council resolution 15-125

**ARTICLE I - THE COMMITTEE ..... 1**

SECTION 1: NAME OF COMMITTEE..... 1

SECTION 2: PURPOSE ..... 1

SECTION 3: MEMBERSHIP ..... 1

*a. Membership Categories and Qualifications. .... 1*

*b. Open Membership..... 2*

*c. Total Membership & Term Of Appointment. .... 2*

*d. Member Code of Ethics ..... 2*

SECTION 4: CONFLICT OF INTEREST..... 2

SECTION 5: TERMINATION OF MEMBERSHIP. .... 2

SECTION 6: REMOVAL OF MEMBERS. .... 3

SECTION 7: RESIGNATION..... 3

SECTION 8: FILLING OF VACANCIES ..... 3

SECTION 9: REMUNERATION..... 3

**ARTICLE II - OFFICERS ..... 3**

SECTION 1: OFFICERS ..... 3

SECTION 2: CHAIRPERSON ..... 3

SECTION 3: VICE-CHAIRPERSON..... 4

SECTION 4: ADDITIONAL DUTIES..... 4

SECTION 5: ELECTION..... 4

SECTION 6: REMOVAL OF OFFICERS ..... 4

SECTION 7: VACANCIES..... 4

**ARTICLE III - MEETINGS ..... 4**

SECTION 1: REGULAR MEETINGS ..... 4

SECTION 2: SPECIAL MEETINGS..... 5

SECTION 3: ADJOURNED MEETINGS ..... 5

SECTION 4: ALL MEETINGS TO BE OPEN AND PUBLIC..... 5

SECTION 5: POSTING AGENDAS/NOTICES ..... 5

SECTION 6: RIGHT OF PUBLIC TO APPEAR AND SPEAK ..... 5

SECTION 7: NON-AGENDA ITEMS ..... 5

SECTION 8: QUORUM..... 6

SECTION 9: UNEXCUSED ABSENCES ..... 6

SECTION 10: ORDER OF BUSINESS ..... 6

SECTION 11: MINUTES (ACTION)..... 6

SECTION 12: RECOMMENDATIONS TO CITY COUNCIL..... 6

**ARTICLE IV - REPRESENTATION BEFORE PUBLIC BODIES..... 7**

**ARTICLE V - COMMITTEES..... 7**

**ARTICLE VI - AMENDMENTS..... 7**

**APPENDIX**

**CODE OF ETHICS..... 8**

PREAMBLE..... 8

PUBLIC INTEREST ..... 8

CONDUCT..... 8

CONFLICT OF INTEREST ..... 9

POLICY ROLE ..... 11

COMPLIANCE & ENFORCEMENT ..... 11

THE PASO ROBLES PLANNING ACRONYM GLOSSARY

<b>ADT:</b>	Average daily trips made by vehicles or persons in a 24-hour period
<b>ALUP:</b>	Airport Land Use Plan
<b>APCD:</b>	Air Pollution Control District
<b>BMP:</b>	Best Management Practice, Bike Master Plan
<b>CAP:</b>	Climate Action Plan
<b>CC&amp;Rs:</b>	Covenants, Conditions, and Restrictions (private agreements among property owners; the City has no authority to enforce these)
<b>CDBG:</b>	Community Development Block Grant (a federal grant program designed to benefit low and moderate income persons)
<b>CEQA:</b>	California Environmental Quality Act
<b>CFD:</b>	Community Facilities District
<b>SLOCOG:</b>	San Luis Obispo Council of Governments
<b>CUP:</b>	Conditional Use Permit
<b>DRC:</b>	Development Review Committee (a subcommittee of the Planning Commission)
<b>EIR:</b>	Environmental Impact Report
<b>Ex Parte:</b>	Communication between Planning Commissioners and applicants outside of a public meeting
<b>FEMA:</b>	Federal Emergency Management Agency
<b>GHG:</b>	Greenhouse gas
<b>Greenfield:</b>	A large area, usually at the edge of the City, in which properties are either mostly vacant or in agricultural use, but is planned for urban or suburban development
<b>HOME:</b>	Home Investment Partnership Act (a federal program to assist housing for low and moderate income households)
<b>HCP:</b>	Habitat Conservation Plan
<b>HCD:</b>	State Department of Housing & Community Development
<b>HUD:</b>	U.S. Department of Housing and Urban Development
<b>LAFCO:</b>	Local Agency Formation Commission
<b>LID:</b>	Low Impact Development (measures to reduce rainwater runoff impacts)
<b>LLA:</b>	Landscaping and Lighting District
<b>LOS:</b>	Level of Service (a measurement of traffic efficiency used by CalTrans)
<b>MOU:</b>	Memorandum of Understanding
<b>MND:</b>	Mitigated Negative Declaration
<b>NEG DEC:</b>	Negative Declaration (a CEQA statement that a project will not have a significant effect on the environment)
<b>NEPA:</b>	National Environmental Policy Act
<b>PD:</b>	Planned Development/development plan
<b>PUD:</b>	Planned Unit Development (a type of condominium development in which the land beneath a residential unit is owned in fee, as opposed to air space ownership)
<b>SOI:</b>	Sphere of Influence
<b>TOT:</b>	Transient Occupancy Tax
<b>Variance:</b>	A form of relief from zoning development regulations based on physical constraints of a property that prevents development of the same type of buildings allowed on other properties within the same zone and in the same neighborhood
<b>VMT:</b>	Vehicle Miles Traveled

## Chapter 2.20 - PLANNING COMMISSION\*

## Sections:

## 2.20.010 - Established.

There is reestablished, recreated and reorganized a planning commission, which shall succeed unbrokenly the commission previously existing under the provisions of this section, pursuant to the provision of Chapter 3, Title 7 of the Government Code of the State of California, and said planning commission will have the powers and duties described herein.

Planning commissioners shall serve for overlapping three-year terms that expire on February 28. The three terms that expire on December 31, 2013 shall expire on February 28, 2014, the two terms that expire on December 31, 2014 shall expire on February 28, 2015, and the two terms that expire on December 31, 2015 shall expire on February 28, 2016.

(Ord. No. 990 N.S., § 1, 3-5-2013; Ord. 720 N.S. (part), 1997)

## 2.20.020 - Membership and qualifications.

The planning commission shall consist of seven members and they shall be either qualified electors or having a vested interest in the city.

(Ord. 720 N.S. (part), 1997)

## 2.20.030 - Appointments and vacancies..

The members shall be appointed by the mayor with approval of the city council for terms of three years. The term of three years shall be effective with the three planning commissioners selected December 18, 1996. If vacancies occur, other than by expiration of term, such vacancies shall be filled by appointment for the unexpired portion of the term. Members of the planning commission shall serve at the pleasure of the city council.

(Ord. 720 N.S. (part), 1997)

## 2.20.040 - Organization.

The planning commission shall elect its chairman from among its appointed members for a term of one year. In addition, the planning commission may elect a vice-chairman from among its members for a term of one year and, subject to other provisions of law, may create and fill such other offices as it may determine. The director of community development shall serve as commission secretary. The chairman shall preside at meetings, appoint appropriate committees, and direct the affairs of the commission. In the absence of the chairman, if the planning commission elected to appoint a vice-chairman, the duties of the chairman shall be performed by the vice-chairman. In the absence of both the chairman and the vice-chairman, the remaining members shall choose one of their numbers to act as temporary chairman.

(Ord. 720 N.S. (part), 1997)

## 2.20.050 - Regular meetings.

A regular meeting as provided for by law or by rule of the planning commission, or any regularly

advertised public hearing shall be deemed a regular meeting.

(Ord. 720 N.S. (part), 1997)

2.20.060 - Absence and absence for cause.

If a member of the planning commission is absent from three consecutive regular meetings of the planning commission without cause, the office of such member shall be deemed to be vacant and the term of such member terminated and the planning commission shall immediately inform the city council of such termination. An absence due to illness or unavoidable absence from the city and written notice thereof to the planning commission on or before the day of any regular meeting by the planning commission, shall be deemed absence for cause.

(Ord. 720 N.S. (part), 1997)

2.20.070 - Duties and functions.

The planning commission shall perform the duties and have all of the rights, powers and privileges specified and provided for in the Municipal Code or by state law. The functions of the planning commission, while not inclusive, shall be as follows:

- A. To prepare, or cause to be prepared, a general plan and appropriate attachments;
- B. To prepare, or cause to be prepared, specific plans as may be necessary to implement the general plan;
- C. To formulate and recommend policies and standards for development of land uses;
- D. To perform authorized duties related to development review;
- E. To annually review the capital improvement program of the city for consistencies with the general plan; and
- F. To perform such other functions as the city council may direct.

(Ord. 720 N.S. (part), 1997)