



Memorandum

DATE: July 27, 2009

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, Director
Steven M. Cohn, Senior Planner
Jessica Simulcik Smith, Planning Commission Clerk

RE: Review Planning Commission Bylaws for Public Comment Rules

In a recent email, the Director raised a concern that the distinction has been blurred between public testimony and public comment at Planning Commission meetings, due in part to the way that study meeting and regular meeting agendas have been structured. Several Planning Commissioners asked to revisit the Planning Commission bylaws in order to discuss how to better deal with public comment and testimony.

Study sessions on legislative items are intended to be the time when staff introduces a topic and the Commission asks questions and has an *informal* dialogue and deliberation among its members. In most cities, the study meeting is held around a large table, typically in a smaller room, rather than up on a dais in the large Council Chamber. Protocols are more informal in a study meeting, with Commissioners addressing one another less formally, e.g., by first name rather than by title and last name. No motions are made or votes taken at a study meeting. Study meetings are public meetings, so citizens are welcome to attend and listen, but the study meeting is not the time to solicit citizen input or a dialogue with the public.

By contrast, Public hearings at business meetings are a time when the Commission *formally* solicits comment from the broad public. In fact, legal notice of the opportunity to speak is one of the key differences between a study meeting and a public hearing at a business meeting. The published hearing notice puts all members of the public on the same level playing field; they all have an equal opportunity to be alerted to the issues up for public testimony at the hearing and an equal opportunity to give such testimony, both in writing and orally. The public hearing is a more formal proceeding, up at the dais, typically in a Council

Chamber, and the formal terms of address are the norm, e.g., “The Chair recognizes Commissioner Jones.” Finally, after taking testimony and deliberating the merits, the Commission then votes to take some formal action.

Even though the Planning Commission does not take “testimony” at its study sessions, the Commission Bylaws allow opportunities on the agenda for the public to comment – a practice which has caused confusion on how the Commission should handle those comments. Chair Hall has asked that the Commission spend time at its August 6 meeting discussing the intent of the public comment periods (as they appear under “Order of Business” in the Bylaws) and, if necessary, craft guidelines for the nature of testimony that will be allowed outside of a public hearing.

Staff Proposal

Study sessions are intended to provide a time for the Planning Commission to hear from staff, to learn about and understand issues, and to develop a proposal to be brought to the public for a public hearing. Staff is concerned that portions of the public are taking advantage of the “public comment” part of the agenda during study sessions and turning them into mini-public hearings. For the Commission to hear a significant amount of public comment on an issue prior to a public hearing is unfair to other members of the public who are not in attendance and may not have an opportunity to respond.

It is more fair and transparent to hold off on taking oral testimony until the public hearing. The public hearing will generally have a full-formed proposal for the public to comment on. Following the hearing, the Commission can consider the public’s comments in an open session and determine whether they as a group want to respond to concerns.

This chronic issue has been brought to the forefront by recent study sessions on Tree Regulations and RB regulations. Because no legal notice was given of an opportunity for public testimony on those items, a broad and diverse public was not in attendance. Only a relatively small number of interested citizens with a narrow range of perspectives attended. Because the study session agendas now list two “public comment” opportunities (three if you also allow public comment after each agenda item), this subset of the public has typically availed itself of several “bites at the apple.” The comments sometimes prompt Commission questions and devolve into a to-and-fro that goes well beyond the allotted two minutes.

To remedy this situation, and to make Shoreline’s bylaws more in line with other cities, the staff has several suggestions. The first is to not accept public comment on an item at a study session when the item is being discussed. It is not the intention of staff to eliminate public comment; but it is important to have

time on the Commission's schedule for study sessions where the Commission and staff can focus on issues.

If the Commission chooses to accept public comment on study session items, it is staff's suggestion that the comment period be very near the end of the meeting. Staff believes that this would provide the public a time to comment on what has been discussed that night, but would not affect the flow of the meeting. If a member of the public offers comment at the end of the meeting, their remarks will be reflected in the Commission's minutes so Commissioner's can refer to it (if they choose to do so) in subsequent discussions.

Staff suggests that the Commission consider the following options:

1. Whether to retain "public comment" in study sessions.
2. If the "public comment" period is retained, whether to reduce it to one time and move it to later in the agenda.

If the Commission decides to modify the public comment section, the change would need to be made to the Commission's bylaws, Article 4, Section 3 (Order of Business). If the Commission chooses to remove the public comment sections, you would remove item #6 and #8 from the agenda. If you decide to retain a time for public comment, it is staff's suggestion to move it from items #6 and #8 on the regular meeting agenda (prior to Staff Reports) to item #12, following "New Business" and before Reports from Committees and Commissioners".

Attachments

1. Excerpt from Planning Commission Bylaws

Should the Chair be vacated prior to the completion of the Term, the Vice-Chair shall assume the duties and responsibilities of the Chair for the remainder of the said Term. The Chair shall then conduct elections for a new Vice-Chair.

Should the Vice-Chair be vacated prior to the completion of the Term, the Chair shall conduct elections for a new Vice-Chair to serve out the remainder of the Term.

Time spent fulfilling a vacated Term shall not count towards the two consecutive Term limit for Chair and for Vice-Chair.

ARTICLE IV – MEETINGS

SECTION 1: SCHEDULE

The Planning Commission shall hold regular meetings according to the following schedule:

First and Third Thursday of each month. The meetings shall begin at 7:00 p.m. and end at 9:30 p.m. unless modified. Should a regular meeting day be a legal holiday, the scheduled meeting shall be postponed to the succeeding Thursday, unless a majority of the Commission votes to select another day or to cancel the meeting.

A special meeting may be called by the Chair of the Commission, the City Council or Mayor, City Manager or designee, or by the written request of any three (3) Commissioners, providing a 7 day public notice period.

SECTION 2: PURPOSE OF SPECIAL MEETINGS

Special meetings called in accordance with Section 1 of this article shall be called for a specific purpose or purposes, and the announcement for such special meeting shall clearly state such purpose(s). In addition, a specific agenda shall be attached to the announcement of a special meeting delineating the order of business addressing the meeting purpose. The agenda for a special meeting need not conform to that specified in Section 3 of this Article.

SECTION 3: ORDER OF BUSINESS

The order of business for each **regular** meeting of the Commission shall be as follows:

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. DIRECTOR'S COMMENTS
5. APPROVAL OF MINUTES
6. GENERAL PUBLIC COMMENT
7. STAFF REPORTS
8. PUBLIC COMMENT
9. DIRECTOR'S REPORT
10. UNFINISHED BUSINESS

11. NEW BUSINESS
12. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS
13. AGENDA FOR NEXT MEETING
14. ADJOURNMENT

The order of business for each meeting that includes a **Public Hearing** shall be as follows:

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. DIRECTOR'S COMMENTS
5. APPROVAL OF MINUTES
6. GENERAL PUBLIC COMMENT
7. PUBLIC HEARING
8. DIRECTOR'S REPORT
9. UNFINISHED BUSINESS
10. NEW BUSINESS
11. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS
12. AGENDA FOR NEXT MEETING
13. ADJOURNMENT

SECTION 4: PUBLIC COMMENT

Planning Commission meetings allow the public to express its views. In all cases, speakers are asked to come to the front of the room to have their comments recorded. Each speaker must begin by clearly stating their first and last name, and city of residence. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak.

During the General Public Comment period, the Planning Commission will take public comment on any subject which is not of a quasi-judicial nature or specifically scheduled later on the agenda. Each member of the public may comment for up to two minutes. However, Item 6 (the General Public Comment period) will generally be limited to twenty minutes. Each member of the public may also comment for up to two minutes on action items after each staff report has been presented.

During Public Hearings, the public testimony or comment follows the Staff Report. The rules for procedure for Public Hearings before the Planning Commission are further defined in Resolution No. 182.

ARTICLE V - RULES OF MEETINGS

SECTION 1: ABSENCES

Unexcused absence from more than three (3) consecutive meetings shall be cause for removal. Members shall communicate with the Chair of the Commission or the Vice Chair or the Planning & Development Services Director prior to the meeting with requests for excused absences.