

From: C. Dave G <cdg55@earthlink.net>

Sent: Thursday, December 02, 2021 2:47 PM

To: City Clerk Group <cityclerkgroup@cityofgoleta.org>

Cc: Deborah Lopez <dlopez@cityofgoleta.org>; Liana Campos <lcampos@cityofgoleta.org>; Dave G <cdg55@earthlink.net>

Subject: Concerns regarding Agenda Item A.1 21-477 Interviews of Candidates for Planning Commissioner; meeting date 12/02/21

Dear City Clerk – I respectfully request the distribution of my attached written concerns for Agenda Item “A.1 21-477 Interviews of Candidates for the Public Engagement Commission, Planning Commission and the Mosquito and Vector Management District Board of Santa Barbara County,” meeting date 12/02/21.

My name is C. Dave Gaughen, email address of cdg55@earthlink.net (<mailto:cdg55@earthlink.net>), and phone number of (805) 275-6457.

At present, I do not plan on speaking on Agenda Item ““A.1 21-477 Interviews of Candidates for the Public Engagement Commission, Planning Commission and the Mosquito and Vector Management District Board of Santa Barbara County.”

Thank you,

Respectfully, C. Dave Gaughen

C. DAVE GAUGHEN
7456 Evergreen Drive
Goleta, CA 93117
Telephone: (805) 275 – 6457
Email: cdg55@earthlink.net

December 02, 2021

To: The Mayor and Council Members
130 Cremona Drive, Suite B
Goleta, CA 93117

Subj: Concerns regarding Agenda Item “A.1 21-477 Interviews of Candidates for Planning Commissioner.”

Ref. (1) Agenda Item A.1, Meeting Date: December 2, 2021, “SUBJECT: Interviews of Candidates for the Public Engagement Commission, Planning Commission and the Mosquito and Vector Management District Board of Santa Barbara County (59 pages).”
(2) Goleta Municipal Code (GMC) Chapter 2.09 PLANNING COMMISSION

Dear Madam Mayor and Council Members:

I have concerns over the fact that just two candidates applied for the extremely important position of Planning Commissioner and hope that one applicant has the required background to satisfy the expected duties as outlined in the Goleta Municipal Code. In the event that both applicants have not acquired and conveyed such background experience, I respectfully request that Council consider the option of further advertising in order to ensure a greater applicant pool prior to a selection process, if applicable.

BACKGROUND

Reference 1 reads in relevant part as follows,

“One Planning Commissioner, Alfred Smith, recently resigned from their appointment prior to the expiration of their term. They were the preferred candidates of Councilmember Aceves. As such, following interviews of applicants in serving on the Planning Commission, Councilmember Aceves will announce one preferred candidate for appointment to the remaining term of the resigning Commissioner, which will expire on February 1, 2023.”

However, Reference 1 also states under the heading of **ALTERNATIVES**,

“Council is under no obligation to make an appointment at this time. Taking no action would mean that existing Commissioners/Committee Members would continue to attend meetings until a new appointment is made. Council may desire to see further advertising done in order to ensure a greater applicant pool prior to a selection process.”

Additionally, each Planning Commissioner is expected to perform the following duties as outlined in Goleta Municipal Code (GMC) Section 2.09.080 Responsibilities:

“The Commission shall have such duties as are prescribed by California law, including the following:

A. Make recommendations to the City Council regarding reasonable and practical means for implementing the General Plan or elements of the General Plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open space and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the General Plan;

B. Provide an annual report to the City Council on the status of the General Plan and progress in its implementation, including the progress in meeting the City’s share of the regional housing needs determined pursuant to [Government Code](#) Section 65584, local efforts to remove governmental constraints on housing pursuant to [Government Code](#) Section 65583(c)(3), and compliance of the General Plan with the guidelines contained at [Government Code](#) Section 65040.2;

C. Hold hearings and make recommendations to the City Council on tentative subdivision maps;

D. Annually review the Capital Improvement Program of the City and the local public works projects of other local agencies for their consistency with the City’s General Plan and make recommendations to the City Council;

E. Report and make recommendations to the City Council on the conformity of proposed public land acquisition or disposal with the adopted General Plan; and

F. Those duties and responsibilities as described in Title 17. (Ord. 20-12 § 6; Ord. 20-03 § 5; Ord. 09-01 § 3; Ord. 07-13 § 1).”

ENCLOSURE 1: GENERAL BACKGROUND INFORMATION

Last, Enclosure 1 provides general background information for the public and presents: 1) Cathedral City’s Planning Commission Description of Duties, and 2) The Institute for Local Government’s publication entitled “The Planning Commissioner’s Role.”

Thank you for your time and continued hard work.

Respectfully,

C. Dave Gaughen

ENCLOSURE 1

ENCLOSURE 1

Planning Commission Description of Duties

The Planning Commission is an advisory body to the City Council, which is responsible for reviewing and acting on matters related to planning and development. The Commission is composed of five members who shall be residents of the City, serve without compensation and be appointed by the City Council. Each Commissioner will be appointed to a three-year term.

Typical Duties

To implement the General Plan, the Planning Commission is empowered to administer the City's zoning laws, ordinances, rules and regulations which:

- Regulate the use and appearance of buildings, structures and land.
- Regulate location, height, and size of buildings and structures; the size and use of lots, yards, courts, and other open spaces; the percentage of a lot which may be occupied by a building or structure; and the intensity of land use.
- Regulate signs and billboards.
- Establish requirements for off-street parking and loading.
- Establish and maintain building setback lines.

The Planning Commission also reviews environmental documents, municipal code amendments and specific plan or other policy documents, and makes recommendations to the City Council on issues pertaining to Annexations, General Plan Amendments, Zone Changes and policy issues regarding development.

Desirable Qualifications

A Planning Commissioner's primary job is to make land use decisions that are consistent with the policies and plans formally adopted by the City Council. Therefore, the priority of a Planning Commissioner must be to develop decision-making skills and knowledge of City policies. It is not critical to have training in fields such as planning, architecture, law, civil engineering, geology, economics, or demography. These are skills that are available to the Commissioner from staff, consultants, and the applicant. The commissioner's job is to weight the professional input given in staff reports, environmental reports, and consultant reports. A commissioner is much like a judge who is trained to render a legal decision based on the testimony of experts and others who appear as witnesses in a trial.

Suggested qualifications for a Planning Commissioner include:

- A willingness and ability to research and report on issues, programs and policies related to development issues.
- A willingness to attend night meetings on a regular basis. The regular meetings are held on the first and third Wednesdays of the month.
- A willingness to assist in implementing projects as decided upon by the City Council.
- The ability to sustain harmonious working relationships with Commission members, the City Council,

staff, residents, and the public.

- A willingness to attend extracurricular meeting and training seminars related to regional planning uses.



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SECTION 1

The Planning Commissioner's Role



WHAT IS A PLANNING COMMISSION?

The planning commission is a permanent committee made up of five or more individuals who have been appointed by the governing body (city council or board of supervisors) to review and act on matters related to planning and development.¹ Most planning commissioners are lay people without any previous land use experience. Commissioners serve at the pleasure of the council or board of supervisors, so commission membership may change in response to changes in those bodies. A local agency need not create a planning commission; in some jurisdictions, the governing body functions in that capacity.²

WHY PLAN?

Planning is a proactive process that establishes goals and policies for directing and managing future growth and development. Local agencies plan to address

fundamental issues such as the location of growth, housing needs, and environmental protection. Additionally, planning helps account for future demand for services, including sewers, roads, and fire protection. In addition, planning:

- **Saves Money.** Good planning can save on infrastructure and essential service costs.
- **Sets Expectations.** Planning establishes the ground rules for development. A comprehensive general plan, for example, sends a clear signal that accepted standards and procedures apply to community development. This will not eliminate conflicts entirely, but at least sets expectations that can help minimize conflict.
- **Improves Economic Development and Quality of Life.** Economic development and quality of life issues go hand in hand because businesses want to locate in communities where their employees want to live. Planning outlines alternatives and choices so that the community can promote employment and economic well-being.
- **Provides a Forum for Reaching Consensus.** Planning processes, such as the development of the general plan, provide a forum for seeking community consensus. Planning efforts should always involve broad and diverse segments of the community to assure that the resulting plan fully addresses community needs. This will provide the public with a sense of ownership over the plan.

¹ Cal. Gov't Code § 65100.

² Cal. Gov't Code § 65101.

- **Connects People to the Community.** Planning ensures that architectural and aesthetic elements are incorporated into projects to connect people to their community and establish a sense of place.
- **Protects Property Values.** Property values are enhanced when a community plans for parks, trails, playgrounds, transit, and other amenities. Planning also protects property and property values by separating incompatible land uses. Imagine if a factory could just set up shop in the middle of a neighborhood. Planning assures that this will not occur.
- **Reduces Environmental Damage and Conserves Resources.** Planning helps identify important natural and cultural resources and can channel development in a way that protects or augments these resources.

THE COMMISSION'S DUTIES

The planning commission plays a central role in the planning process in three important ways. First, it acts as an advisory board to the main governing body on all planning and development issues. Second, the commission assures that the general plan is implemented by reviewing development applications on a case-by-case basis. Just as you build a building one brick at a time, you implement a community vision one project at a time. Third, the commission functions as the decision-making body for many proposals. However, any planning commission action can be appealed to the governing body, which can uphold the commission's decision, overturn it, modify it, or send it back for further study.

Planning commission duties vary depending on the jurisdiction. You can learn about your commission's particular responsibilities by asking the planning department. Most commissions have the following responsibilities:³

- **General Plan.** Assist in writing the general plan and hold public hearings on its adoption. (The governing body retains authority to actually adopt the general plan.) Promote public interest in the general plan.

Consult with and advise public officials and agencies, utilities, organizations, and the public regarding implementation of the general plan. Also review, hold hearings on, and act upon proposed amendments to the plan.

- **Specific Plans.** Assist in writing any specific plans or community plans and hold public hearings on such plans. (The governing body retains authority to actually adopt specific plans.) Also review, hold hearings on, and act upon proposed amendments to such plans.
- **Zoning and Subdivision Maps.** Review, hold hearings on, and act upon zoning ordinances, maps, conditional use permits, and variances. Similarly consider subdivision applications.
- **Individual Project Approvals.** Review individual projects for consistency with the general plan, any applicable specific plans, the zoning ordinance, and other land use policies and regulations.
- **Report on Capital Improvements Plans.** Annually review the jurisdiction's capital improvements program and the public works projects of other local agencies for consistency with the general plan.
- **Coordinate Planning Efforts.** Coordinate local plans and programs with those of other public agencies.
- **Consider Land Acquisitions.** Report to the governing body on the consistency of proposed public land acquisition or disposal with the general plan.
- **Special Studies.** Undertake special planning studies as needed.

With so many responsibilities, it is important for every planning commission to think about how it will divide its time between day-by-day approvals and long-range planning efforts, both of which are important. It is easy to get caught up in the day-to-day efforts at the expense of long-range planning.

³ See for example Cal. Gov't Code §§ 65103, 65353, 65400, 65401, 65402, 65854 and 66452.1.

OTHER LOCAL PLANNING BODIES

Some local agencies divide land use decision-making by creating positions and commissions to focus on specific aspects of the land use planning process.

- **Board of Zoning Adjustment.** A local body, created by ordinance and appointed by the governing body, whose responsibility is to consider requests for variances.
- **Building Official.** The person responsible for the administration and enforcement of building, housing, plumbing, electrical, and related codes.
- **Historic Preservation Commission.** A commission appointed by the governing body charged with carrying out the historic preservation chapter of the zoning ordinance.
- **Zoning Administrator.** An appointed official who implements zoning ordinance and is also often empowered to make decisions concerning design permits, administrative use permits, and other permits as provided for in the zoning ordinance.
- **Zoning Board.** An appointed body that hears and decides matters relating to the application of the zoning ordinance and considers appeals of zoning administrator's decisions.

PUBLIC SERVICE ETHICS

As a planning commissioner, you wield considerable power over how your community grows and develops. With this power comes the expectation that you will hold yourself to the highest ethical standards. Part of being ethical means exercising your power in the public's interests, as opposed to personal self-interest or other narrow, private interests. The chart on page 5 highlights some of the ethical values associated with public service and what they mean in terms of your duties as a planning commissioner.

There are a number of sources of guidance on your ethical obligations as a planning commissioner. One is the law. California has a complex array of laws relating to ethics that are summarized in this section. The law, however, merely sets a minimum standard for ethical conduct. Just because an action is *legal* doesn't mean that it is *ethical*. For example, it may be legal for you to vote on your best friend's project application, but if everyone in the community knows how close the two of you are, will the community truly feel that you were able to put the community's interests ahead of your personal loyalties? Another source of guidance may be your agency's own code of ethics, if it has one. Many cities



For More Information

For more resources designed to assist local officials in working through ethical dilemmas, visit the website for the Institute for Local Self Government at www.ilsg.org/trust.

and counties have adopted codes of ethics to serve as a guidepost in local decision-making.⁴

At some point in your service as a planning commissioner, you will likely face two common types of ethical dilemmas. The first involves situations in which doing the right thing will come at a significant personal cost to you or your public agency. In these situations, the answer is relatively simple. The bottom line is that being ethical means doing the right thing for the community regardless of personal costs.

The second type of ethical dilemma involves those situations in which there are two conflicting sets of "right" values. In these instances, drawing the ethical bottom line is more difficult. If you find yourself faced

⁴ For more information about codes of ethics, see *Developing a Local Agency Ethics Code: A Process-Oriented Guide*, published by the Institute for Local Self Government and available at www.ilsg.org.

with a “right versus right” decision, the following questions may help you come to an answer:

- Which ethical values are in conflict (for example, trustworthiness, compassion, loyalty, responsibility, fairness, or respect)?
- What are the facts? What are the benefits to be achieved or the harm to be avoided by a particular decision? Is there a decision that does more good than harm?
- What are your options? Is there a course of action that would be consistent with both sets of values?
- Is one course of action more consistent with a value that is particularly important to you (for example, promise-keeping or trustworthiness)?
- What decision best reflects your responsibility as an officeholder to serve the interests of the community as a whole?
- What decision will best promote public confidence in the planning commission and your leadership?

For example, as a planning commissioner, you will frequently be asked to make exceptions to your jurisdiction's planning laws. A developer may, for instance, ask for a general plan amendment to enable a project to be approved. The developer is likely to point to numerous benefits that will flow to the community as the result of the amendment.

In coming to a decision in such a situation, the first step is to consider what ethical values are at stake. One might be fairness to those property owners who developed their properties in accordance with the policies expressed in the general plan. Another might be compassion for the developer seeking the amendment: if it is not economically feasible to develop the property as envisioned by the general plan, perhaps an amendment is in order.

The next step is to weigh the competing costs and benefits. Although the developer has identified the benefits to the community associated with approving the amendment, what are the benefits of adhering to the general plan? Will an amendment in this situation open the door for other amendment requests? How might the

planning commission fairly evaluate those requests while still maintaining the overall integrity of the general plan? Are there options that might enable the community to reap some of the benefits described by the developer while still being consistent with the general plan as written?

Finally, consider which approach will best promote the public's confidence in the planning process. Will the public's confidence be undermined if the commission doesn't enforce the plan? Or will denying the amendment look so rigid and unfair to the applicant that it will undermine the public's faith in the planning commission as a decision-making body? What decision will best support the commission's stewardship of the community's growth and development?

The answers to the questions listed above will vary with each situation and likely will not always be clear-cut or obvious. However, asking difficult questions and thoroughly evaluating the answers can go a long way in helping you make consistently ethical decisions that further the public's interests.

ETHICS LAWS

California law promotes ethics in two ways: by requiring public disclosure and by prohibiting certain actions. The financial statements that you (and many public officials) must file with the Fair Political Practices Commission (FPPC) are an example of disclosure. In essence, the law allows the public to scrutinize the relationships between your personal finances and public decision-making. Disclosure laws allow the public (typically with the assistance of the media) to assess whether there may be too close of a relationship between your economic interests and the decisions you make as a public official.

In other instances, the law goes a step further and *prohibits* certain actions. For example, an official must disqualify him or herself from participating in a decision that will affect his or her financial interests. *This does not necessarily mean the disqualified official has done anything illegal or corrupt.* It simply means that the public's interests are better served by removing any question as to the official's decision-making motivations.

Public Service Values for Commissioners

Fairness

- I review applications and make other decisions based on the merits of the issues.
- I honor the law's and the public's expectation that the general plan and other planning policies will govern development decisions in our jurisdiction.
- I support the public's right to know and promote meaningful public involvement.
- I am impartial and do not favor developers or others who are in a position to help me.
- I promote equality and treat all people, projects, and perspectives equitably.

Compassion

- I recognize government's responsibilities to society's less fortunate.
- I consider exceptions to planning policies when there are unintended consequences or undue burdens.
- I realize that some people are intimidated by the public process and try to make their interactions as stress-free as possible.
- I convey the agency's care for and commitment to its community members.
- I am attuned to and care about the needs of the public, officials, and staff.

Respect for Others

- I treat fellow officials, staff, and the public with courtesy, even when we disagree.
- I focus on the merits in discussions, not personalities, character, or motivations.
- I gain value from diverse opinions and build consensus.
- I follow through on commitments, keep others informed, and make timely responses.
- I am approachable and open-minded and I convey this to others.
- I listen carefully and ask questions that add value to discussions.
- I am engaged and responsive.
- I involve staff in all meetings that affect agency business.

Responsibility

- I come to meetings prepared.
- I do not disclose confidential information without proper legal authorization.
- I represent the official positions of the agency to the best of my ability when authorized to do so.
- I explicitly state that my personal opinions do not represent the agency's position and do not allow the inference that they do.
- I refrain from any action that might appear to compromise my independent judgment.
- I take responsibility for my own actions, even when it is uncomfortable to do so.
- I do not use information that I acquire in my public capacity for personal advantage.
- I do not represent third parties' interests before my agency or neighboring agencies.

Integrity

- I am truthful with my fellow commissioners, the public, and others.
- I do not promise that which I have reason to believe is unrealistic.
- I am prepared to make unpopular decisions to further the public's interest.
- I credit others' contributions in moving our community's interests forward.
- I do not knowingly use false or inaccurate information to support my position.
- I excuse myself from decisions when my or my family's financial interests may be affected by my agency's actions.
- I disclose suspected instances of corruption to the appropriate authorities.

Public Trust

- I remember that my obligation as a public official is to serve the whole community.
- I make sound planning decisions that implement the policies expressed in the general plan.
- I consider the interests of the entire community in reaching my decisions.
- I give full considerations to all aspects of a project, including protection of the environment and the need for affordable housing.
- I promote the efficient use of the agency's resources.
- I balance the fiscal impacts of a project with the agency's social and planning goals.

Vision

- I work to assure that the vision expressed in the general plan is one that works to improve the quality of life in my community.
- I am proactive and innovative when setting goals and considering proposals.
- I maintain consistent standards but am sensitive to the need for compromise, thinking outside the box, and improving existing paradigms.
- I promote intelligent innovation to forward the agency's policies and services.
- I consider the broader regional and statewide implications of the agency's decisions and issues.

California's ethics laws fall into three general categories: (1) those involving possible financial gain by you as an officeholder, (2) those involving the use of your office for personal advantages and perks, and (3) those involving situations in which your ability to conduct a fair and impartial process might be questioned. Each of these relates back to the overarching goal of assuring the public that governmental decisions are made based on what best serves the public's interests.

Financial Gain

The notion behind financial gain laws is that the public has a right to know about a public official's financial situation and that officeholders should not even *appear* to be influenced by the effect of their decisions on their personal finances. Financial gain laws include:

- **Financial Interests—Disclosure and Disqualification Issues.** Public officials must periodically disclose their financial interests—such as interests in real property,

investments, business positions, and sources of income and gifts—to the public.⁵ This disclosure is made on a form called “Statement of Economic Interests,” also known as “Form 700.” A public official cannot make or attempt to influence a governmental decision if it is reasonably foreseeable that the decision could have a “material financial effect” on his or her financial interests.⁶ The FPPC has developed a series of questions (known as the “eight-step process”) to determine whether an official must be disqualified from participating in a decision. If you are worried that an upcoming decision will have an effect—positive or negative—on one or more of your financial interests, talk with your agency's attorney (not planning staff) as soon as possible.

- **Interests in Contracts Prohibited.** A public official may not have a financial interest in any contract made by the board or body of which the official is a member.⁷ The law is very strict on this point. Such

THE STATE POLITICAL REFORM ACT: KEY THINGS TO KNOW

- California's disclosure and disqualification requirements are administered by the Fair Political Practices Commission (FPPC), which gives both informal and formal advice on the application of these requirements. Check out the FPPC's website (www.fppc.ca.gov) for contact information, as well as for other useful information relating to the FPPC's administration of the Political Reform Act.
- For purposes of disqualification, key areas of financial interest of concern to the FPPC include business entities in which an official has an investment of \$2,000 or more; real property in which an official has an interest of \$2,000 or more; sources of income of \$500 or more within the preceding year; business entities in which the official is a director, officer, partner, trustee, employee, or manager; and anyone from whom the official has received gifts of \$340 or more in the preceding year.
- When in doubt, the FPPC will usually err on the side of disclosure and disqualification.
- The city attorney's or county counsel's advice will not immunize an official from prosecution for violating disclosure and disqualification requirements. However, it is nonetheless wise to consult agency counsel as soon as you suspect that you may have an issue under the Political Reform Act.
- Violations of the Political Reform Act are subject to civil and criminal penalties, depending on the severity of the offense. For example, knowing and willful violation of the act is a misdemeanor and subjects the violator to a fine of the greater of \$10,000 or three times the amount not reported.⁸
- For information on how to disqualify yourself, see Section 2, page 14.

⁵ See Cal. Gov't Code §§ 87200 and following.

⁶ See Cal. Gov't Code §§ 87100 and following.

⁷ Cal. Gov't Code § 1090.

⁸ Cal. Gov't Code § 91000(b).

contracts are void.⁹ Under most circumstances, the prohibition cannot be avoided by disqualifying oneself from participating in the decision on the contract. Again, consult with your agency's attorney immediately if there is a contract before the commission in which you may have an interest.

- **Bribery.** Requesting, receiving, or agreeing to receive anything of value in exchange for an official action is a crime. In addition to criminal penalties, an individual convicted of bribery forfeits his or her office and is disqualified from holding public office in the future.¹⁰

Personal Advantages and Perks

The law strictly limits the degree to which an officeholder can receive benefits relating (or appearing to relate) to his or her status as an officeholder:

- **Gifts.** With certain exceptions, a public official must disclose most gifts over \$50 on his or her Statement of Economic Interests and may not receive gifts from any one source that totals over \$340 in a single year.¹¹ Gifts include meals, certain kinds of travel payments, and rebates or discounts to public officials not offered to others in the usual course of business.¹² The law is particularly strict about free transportation passes (not including frequent flier awards offered to everyone); acceptance of such passes results in immediate loss of office.¹³
- **Speaking Fees or Honoraria.** Public officials may not receive payments for giving a speech, writing an article, or attending a conference or meeting. Limited exceptions apply. Free conference admission, lodging, and meals provided directly in connection with speeches within California, for example, are not considered prohibited honoraria and need not be reported.¹⁴
- **Use of Public Resources.** It is a felony to misuse public funds, which can include such things as submitting inaccurate or inflated expense reports from traveling on agency business. Public resources (including staff time and office supplies) may not be used for either personal or political purposes.¹⁵



For More Information

Institute for Local Self Government, *A Local Official's Guide to Ethics Laws* (2002), available at www.ilsg.org.

California Attorney General's Office, *Conflicts of Interests* (1998), available at www.caag.state.ca.us/publications/conflict/conflict.pdf.

Fair Political Practices Commission booklets, available at www.fppc.ca.gov or through the toll-free advice line (866-ASK-FPPC).

- **Common Law Bias from Personal Interests.** A strong personal interest in a decision can be the basis for a finding of what is known as "common law bias." Common law bias is sufficient to disqualify a public official from participating in a decision, particularly if the official is sitting in a quasi-judicial capacity (see page 20). For example, one court found a council member biased on a proposed addition to a home in his neighborhood because the addition would block the council member's view of the ocean.¹⁶

Fairness and Impartiality

Officeholders should make decisions in a fair and impartial manner. Key laws that planning commissioners need to be aware of include:

- **Campaign Contributions.** Commissioners who are running for office must disqualify themselves from entitlement proceedings—such as land use permits—if they received campaign contributions of more than \$250 during the previous twelve months from the applicant. Moreover, candidates may not receive or solicit contributions of more than \$250 from any applicant while the application is pending and for three months afterward.¹⁷

⁹ Cal. Gov't Code § 1092.

¹⁰ Cal. Penal Code §§ 68, 98.

¹¹ Cal. Gov't Code §§ 87200, 87207; 2 Cal. Code of Regs. § 18940.2 (\$340 amount valid through 2004).

¹² Cal. Gov't Code § 82028(a).

¹³ Cal. Const. art. XII, § 7.

¹⁴ Cal. Gov't Code §§ 89501, 89502; 2 Cal. Code of Regs. § 18950.3.

¹⁵ Cal. Penal Code § 424. See, e.g., *People v. Battin*, 77 Cal. App. 3d 635 (1978).

¹⁶ See *Clark v. City of Hermosa Beach*, 48 Cal. App. 4th 1152 (1996).

¹⁷ Cal. Gov't Code § 84308.

RECIPE FOR AN EFFECTIVE PLANNING COMMISSION²¹

- **Focus on the Big Picture.** Focus on the big picture before you; avoid being distracted by personalities, groups, or issues that do not have anything to do with the merits of the present agenda item.
- **Meeting Procedures.** Established rules and procedures keep meetings on track. The chairperson and staff should have defined responsibilities. In addition, rules for testimony should be clear and widely available at all meetings.
- **Follow the Law.** Keep legal requirements in mind. When in doubt, ask legal counsel for advice. Before approving an application, you should be able to answer the following questions in the affirmative: Is the proposal consistent with the general plan? Does it meet all applicable zoning and subdivision requirements? Are the environmental impacts reduced or eliminated by the conditions of approval, or are there overriding considerations? Is the commission's decision supported by findings of fact based on substantial evidence in the record?
- **Stay Informed.** Prior to the hearing, commissioners should have read the agenda packet and supplemental reports. It is also a good idea to review the portions of the general plan and the zoning ordinance that are relevant to each agenda item.
- **Open Communication.** Each commissioner shares responsibility for the free flow of ideas and discussion among everyone present at a meeting, including applicants, staff, members of the public, and the commissioners themselves. Be objective, listen, and ask questions.
- **An Efficient Pace.** The chair should recognize when testimony must be closed for deliberations. Commissioners should hold their motions until the discussion has concluded. Both the chair and the other commissioners should know whether to continue a hearing or to make a decision.
- **Effective Leadership.** An effective chairperson assists the flow of ideas and helps keep the proceedings on track.

- **Effect of Decisions on Family Members' Financial Interests.** A public official must disqualify him or herself from participating in a decision that would reasonably have a foreseeable material financial effect on a member of his or her immediate family (spouse and dependent children).¹⁸
- **Party or Factual Bias.** A strong personal animosity towards a project applicant or the receipt of information about a project may constitute a disqualifying source of bias when a planning commission is sitting in a quasi-judicial capacity.¹⁹ This is a variation of the "*ex parte* communications" doctrine, which suggests that, in quasi-judicial matters, all communications to you about the merits (or demerits) of the proposed use should occur in the course of a public hearing (see page x).

- **Dual Officeholding.** State law prohibits public officials from holding multiple offices at the same time that subject them to conflicting loyalties.²⁰ Check with your agency counsel if you are worried that this prohibition may apply to an office you are seeking.

In addition to these state ethics requirements, cities and counties may have local restrictions and requirements.

WORKING WITH FELLOW COMMISSIONERS

Good working relationships within the planning commission, as well as with planning and other staff, the city council or board of supervisors, other boards and commissions, applicants, consultants, and the public, are critical in order for planning functions to be effective and efficient. Positive working relationships are based on

¹⁸ Cal. Gov't Code §§ 82029, 87103.

¹⁹ See *Breakzone Billiards v. City of Torrance*, 81 Cal. App. 4th 1205, 1234 n.23 (2000).

²⁰ See Cal. Gov't Code § 1126.

²¹ Adapted from Governor's Office of Planning and Research, *The Planning Commissioner's Book*, (revised May 1998); http://ceres.ca.gov/planning/plan_comm/.

mutual understanding of the role of each group, including:

- Clear expectations about how each group will relate to the other, as defined by adopted procedures
- A common set of goals, as reflected in the general plan and other adopted planning documents
- A willingness to solve problems by listening to others, considering alternatives, and arriving at a consensus
- An ability to communicate directly and clearly with others

WORKING WITH STAFF

A good working relationship with staff will significantly improve your effectiveness as a planning commissioner. A planning department staff member will always be present at commission meetings. Other attendees may include representatives from your jurisdiction's attorney's office and public works department.

Planning staff advises the commission on local agency plans, ordinances, and policies. In addition, they provide background information and research, prepare plans and reports, make recommendations, and answer technical questions on development proposals under the

commission's consideration. Other staff responsibilities include:

- Orienting new commissioners
- Noticing meetings
- Responding to requests for information in a timely and professional manner
- Delivering agenda packets in time for adequate review
- Highlighting key issues, data, and criteria in staff reports and presentations
- Anticipating the type of information that will be needed for a decision
- Being accessible and keeping all commissioners equally informed
- Reviewing applications for completeness
- Acting in a fair, ethical, and consistent manner

Members of the planning staff can be a tremendous resource for you. Most will have received at least some training in geography, landscape design, urban and rural planning, economics, law, and statistics. In addition to their other duties, staff are responsible for staying current on new trends, technologies, and regulations in the planning and development field. They can use this

TIPS FOR DEVELOPING AND MAINTAINING GOOD STAFF RELATIONS

A good staff-commission relationship is built on mutual trust and respect. Here are some ways to achieve that:

- Come to meetings having reviewed the materials prepared by staff.
- Ask questions of staff in advance and alert them to concerns you intend to raise during the meeting.
- If you disagree with a staff recommendation, state specific reasons for your decision. This will help staff to draft findings in support of your decision. Simply stating "I do not like the project" is not enough.
- Clearly communicate to staff what the commission needs in order to make well-informed decisions. If material is not being presented in an understandable way, work with staff to make changes.
- Treat staff with respect.
- Do not assume that staff is wrong and a critic is right.
- Compliment staff when and where appropriate.

information to assist the planning commission in developing creative solutions to local problems.

Consultants

Local agencies face serious restrictions on staff expansion, while the demand for public planning continues to increase. Consultants are often used to address temporary staffing needs, such as:

- Complete studies requiring special skills
- Provide additional support on an as-needed basis
- Prepare studies and analyses required by environmental laws
- Assist on large projects, such as a general plan update

The commission should consider consultants as extensions of regular staff.

WORKING WITH THE GOVERNING BODY

One not so obvious ongoing relationship to take into account is the relationship between the planning commission and the governing body (city council or board of supervisors). In most cases, individual commissioners serve at the pleasure of one or more members of the governing body and therefore should consider the views of the governing body in making their decisions.

The planning commission-governing body relationship can become strained (at least from the commission's perspective) if the governing body repeatedly overturns planning commission decisions. In such cases, you may feel that the governing body did not look at the land use issues as closely as the commission. One thing to keep in mind, however, is that the governing body must also contend with political pressures that are not always felt by the appointed commission.

Here are some ideas on how to promote a good ongoing relationship between the planning commission and the governing body:



Who Does What in the Project Review Process?

PLANNING STAFF

- Identifies relevant local regulations for project applications
- Works with applicants to make a project work
- Works with other departments and agencies, such as the engineering department or the regional air board, to incorporate comments and technical recommendations into a project
- Ensures that procedures are being followed
- Prepares a professional analysis and recommendation
- Monitors project implementation
- Holds consensus-building meetings on controversial projects

AGENCY COUNSEL

- Answers legal questions
- Does not give policy direction or advice
- Advises on relevant legal considerations, both in terms of process (for example, notice requirements) and substance

PLANNING COMMISSION

- Balances staff analysis, including agency goals and policies, with community input
- Renders a decision based on findings of fact when acting in a quasi-judicial capacity
- Makes recommendations to the governing body on policy matters when acting in a legislative capacity
- Evaluates land use aspects of projects and leaves more technical issues for staff review and implementation (commissioners should trust staff to implement their general directions)

GOVERNING BODY

- Balances staff analysis, planning commission decisions, and agency goals

- Make adequate findings to insure that the reasons for your actions are clear
- Ask for clarification of the governing body's policies or actions if they are unclear
- Include in planning commission minutes any questions or points of view that are not obvious in your decisions and findings
- Send a planning commission representative to meetings of the governing body to discuss difficult decisions
- Request an annual joint work session to discuss priorities, communication and other pressing issues
- Do not rely solely on staff to convey your message, either to the public or to the appropriate elected officials
- Do an annual self-evaluation and follow through with any needed changes in how the commission does business

Keep in mind that elected officials must answer to the voters. You may find it helpful to be familiar with the policy perspectives of the members of the governing body, particularly as they relate to land use policies and programs. (For example, are they “slow growth” or “pro-growth”?) Casting individual commission decisions in ways that address issues of concern to individual members of the governing body (if not conforming to them) reduces the likelihood that a commission decision will be overturned on appeal.

WORKING WITH THE MEDIA

The media can be a commissioner's best friend—or worst enemy. Developing a good relationship with the local media is an important—and often underrated—element of working in local government. Most members of the public will learn about local land use decisions through local newspapers, radio, and television. Because of this, it is important to engage reporters to make sure that the local agency's side of the story gets told.

One of the keys in working with the media is to retain your credibility. Here are some tips for retaining your credibility:

- Share information when you can and be as transparent as possible.
- Return phone calls promptly (respect reporter deadlines). Leaving questions unanswered invites errors and unintentional bias.
- Never say “no comment;” this always sounds evasive.
- One of the most respected comments is “I don't know. I'll get back to you.” Be sure to get back with the information.
- Remember that there is no such thing as “off the record.” If you don't want a comment to end up in the press, don't make it.

It can be beneficial to establish ongoing relationships or an open-door policy with media representatives, but always be careful to keep your comments concise and on point. Often the media is just looking for a quote from the commission, not necessarily all the relevant facts. Staff may be able to provide reporters with more specific facts or details.

Getting Your Message Out

Another good tip for dealing with the media is to identify and repeat a single message. If you think about it, most people are only quoted once or twice in an article. What is it that you want that quote to be? (See *Media Messages for Local Government* on the next page) If you stick to your message and keep repeating



For More Information

Delivering the Message (2000). California Association of Public Information Officials. Available at www.capio.org

it, it is more likely that the reporter will use that quote. The more you ramble, the greater the risk is that you will get off message and that the reporter might pull something out of context that you might not like to see in print.

In addition, focus on substance, not procedures. Most people find procedural and legal details boring. Jargon should be avoided at all costs. Instead, use everyday language. Why say “we gave it a negative declaration”

when you can say “we’ve decided it won’t significantly affect the environment”?

An excellent resource in working with the media is your jurisdiction’s public information officer. This person can alert the media to favorable stories. If you never call reporters in advance, then all they will cover are meetings, not all of which go smoothly. Contrary to popular perception, good news goes in the paper too. It is more likely that your message will stick when the story matches the message.

MEDIA MESSAGES FOR LOCAL GOVERNMENT

Journalists often build stories around people to explain an issue in human terms. Often, land use stories are about an agency’s action in response to public concerns. Emphasizing the benefits of this responsiveness as it impacts individuals puts the story into a framework with which readers can relate. Here are some talking points that address common land use decisions from the local agency perspective:

- **Good Planning Maximizes Property Values.** Planning maximizes property values by insuring that development occurs in a way that is compatible with the surrounding community and the environment. Often, when property owners complain that a particular action devalues their property, they are forgetting that the underlying value of their property is already higher due to nearby public investments in roads, sewers, infrastructure, and good planning in general.
- **What Is the Impact to the Average Person?** Describe the positive or negative implications of decisions in terms of what they mean for the general public. How does planning promote a better community?
- **Balancing Act.** Local officials must strike a fair balance between individual preferences and the interest of the whole community. What is at stake in most planning decisions is the ability of public agencies to solve problems and respond to the public’s concerns.
- **Quality of Life.** Effective planning promotes important quality of life issues, including a sense of place and connectedness. Developing a sense of community helps draw people together and makes communities better places to live and raise families.
- **Economic Prosperity.** Quality of life and adequate infrastructure issues are often key factors when a business is deciding where to locate.
- **Fairness.** Public agencies seek solutions that achieve fairness and justice, not only for individual landowners but also for the community as a whole.