



## TOWN OF APPLE VALLEY MEMORANDUM

Get a Slice of the Apple.

**TO:** Planning Commission  
**FROM:** Lori Lamson, Community Development Director  
**SUBJECT:** Public Comment Time Limit  
**DATE:** July 17, 2013

On June 5, 2013, Chairman Lamoreaux requested that staff agendaize, for discussion purposes, the time limit of public comments for Planning Commission meetings.

Attached is Planning Commission Resolution No. 2005-005 which identifies the rules and procedures for conduct of Planning Commission meetings. This resolution reflects that public comment shall be taken at the meetings with a minimum time limit of three (3) minutes for each individual. It is upon the discretion of the Chairperson to extend this time if deemed appropriate.

However, staff has searched back into previous Motion Agendas and it appears that five (5) minutes has been given for public comment for over ten (10) years. If the Planning Commission wishes to modify its current practices of the five (5) minute rule, it can do so without modifying the Resolution, provided that the minimum time limit is three (3) minutes. If the Planning Commission wishes to maintain the five (5) minute rule, the Chairperson continues to have this discretion and the resolution does not need to be modified. If the Planning Commission wishes to make the five (5) minute rule a formal minimum limit, the Resolution can be modified to reflect this time limit.

Staff recommends that the Planning Commission provide direction to staff on the time limit for public comments. Future Motion Agendas will be modified to reflect any revised time limit decided upon by the Planning Commission.

ATTACHMENT  
Planning Commission Resolution No. 2005-005

**PLANNING COMMISSION RESOLUTION No. 2005-005**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING THE RULES AND PROCEDURES FOR CONDUCT OF PLANNING COMMISSION MEETINGS.**

**WHEREAS**, the Town Council of the Town of Apple Valley, pursuant to Section 65100 of the State of California Government Code, and following the California Government Code, has, by Ordinance, duly created a Planning Commission with specific responsibilities, as enumerated in Chapter 2.18 "Planning Commission" of the Town of Apple Valley Municipal Code; and

**WHEREAS**, Sections 2.18.030 and 2.18.040 of Chapter 2.18 "Planning Commission" of said Municipal Code provide that the Planning Commission of the Town of Apple Valley shall determine the time, date and place for conducting their regular meetings and that, in addition, the Commission shall adopt rules for the transaction of business; and

**WHEREAS**, Sections "II Meetings", Subsection "B. Regular Meetings" of the Commission's adopted Rules of Order and Procedures for Conducting Business provide that the Planning Commission of the Town of Apple Valley specifies the time for conducting the regular meetings and that said time will change with the adoption of this revised Resolution.

**NOW, THEREFORE**, the Planning Commission of the Town of Apple Valley resolves that the Rules of Order and Procedure for governing the conduct of Planning Commission meetings are hereby adopted to read as follows:

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## **I. RULES OF ORDER, ORGANIZATION AND OFFICERS**

### **A. RULES OF ORDER**

Except as otherwise provided in these Rules of Procedure, Roberts Rules of Order, Newly Revised, shall be used as a guide to the conduct of the meetings of the Planning Commission; except as may otherwise be provided by applicable law, no omission to conform to said rules of order shall in any instance be deemed to invalidate any action taken by the Commission.

### **B. ORGANIZATION**

The Planning Commission consists of five regular members and shall be organized and exercise such powers as prescribed by Ordinance of the Town of Apple Valley.

### **C. OFFICERS**

#### **1. Selection**

**(a)** A Chairperson and Vice-Chairperson shall be elected annually from among the Commission's membership at the first meeting in February, to serve at the pleasure of the Commission. No person shall serve more than two (2) consecutive terms as Chairperson or Vice-Chairperson.

**(b)** The Vice-Chairperson shall succeed the Chairperson if he or she vacates the office before the term is completed and shall serve the unexpired term of the vacated office. (A new Vice-Chairperson shall be elected at the next regular meeting.)

- (c) In the absence of the Chairperson and Vice-Chairperson, any other member shall call the Commission to order whereupon a Chairperson pro tem shall be elected from the members present to preside.

## **2. Responsibilities**

### **(a) Chairperson**

- (1) Preside at all meetings of the Commission.
- (2) Call special meetings of the commission in accordance with legal requirements and the Rules of Procedure.
- (3) Sign documents of the Commission.
- (4) See that all Actions of the Commission are properly taken.
- (5) Assist staff in determining agenda items.
- (6) The Chairperson shall be an ex-officio member of all committees of the Planning Commission with voice but not vote.

### **(b) Vice-Chairperson**

- (1) During the absence, disability or disqualification of the Chairperson, the Vice-Chairperson shall exercise or perform all the duties and be subject to all the responsibilities of the Chairperson.
- (c) The Director of Planning, or other person acting in that capacity, with the assistance of his staff, shall be responsible for providing the Commission with proposed minutes of its meetings, with proposed forms of resolutions when appropriate with staff reports and recommendations on matters of business which come before the Commission, and with proposed forms of recommendations and reports for the Commission.

## **D. POWERS AND DUTIES**

The functions, powers and duties of the Planning Commission shall be all those functions, powers and duties of a Planning Commission and Board of Zoning Adjustment as provided in Chapters 3 and 4 of Title 7, commencing with Section 65100 of the California Government Code (Planning and Zoning Law) as the same may be hereafter amended. The Planning Commission shall perform such other duties and functions as may be designated by the Town Council.

## **II. MEETINGS**

### **A. PUBLIC MEETINGS**

All meetings shall be held in full compliance with the provisions of state law, ordinances of the Town, and these Rules of Procedure.

**B. REGULAR MEETINGS**

1. Regular Meetings shall be held on the First and Third Wednesdays of each month at 6:00 p.m. in the Town Council Chambers of the Town of Apple Valley, currently located at 14955 Dale Evans Parkway, unless otherwise determined by the Commission.
2. Whenever a regular meeting falls on a public holiday, no regular meeting shall be held on that day. Such regular meeting shall occur on the next business day, which is not a public holiday, or canceled by motion, adopted by the Planning Commission.

**C. ADJOURNED MEETINGS**

In the event it is the wish of the Planning Commission to adjourn its meeting to a certain hour on another day, a specific date, time, and place must be set by the Commission prior to the regular motion to adjourn, and the meeting so adjourned.

**D. SPECIAL MEETINGS**

Special meetings of the Planning Commission may be held at any time upon the call of the Chairperson or by a majority of the voting members of the Commission or upon request of the Town Council following at least 24 hours notice to each member of the Commission, to the press, and to each person who has duly requested notice of such meetings. The time and place of the special meeting shall be determined by the convening authority, except that the meeting-place shall be within the corporate limits of the Town. Only those matters of business described in the call and notice for a special meeting shall be considered by the Commission.

**E. STUDY SESSIONS/WORKSHOPS**

1. The Commission may be convened as a whole or as a committee of the whole in the same manner as prescribed for the calling of a special meeting for the purpose of holding a special study session, provided that no official action shall be taken and no quorum shall be required.
2. All study sessions shall be open to the public; but, unless the Commission invites evidence or comments to be given, participation by interested members of the public shall not take place at study sessions.

**F. AGENDA**

1. An agenda for each meeting of the commission shall be prepared by the Planning Director or his staff with the cooperation and approval of the Chairperson or in the absence of the Chairperson, by the Vice-Chairperson.
2. The Commission cannot guarantee that applicants meeting filing deadlines will be placed on the agenda of the first meeting thereafter.

3. A copy of the Agenda for each meeting of the Commission shall be posted at the Town Hall administrative offices seventy-two (72) hours prior to each regular meeting and a copy of the notice and call (including agenda) shall be posted at least twenty-four hours prior to each special meeting of the Commission.
4. Barring unavoidable difficulties, the Agenda for each regular meeting of the Commission, and reports and other documentation related thereto, shall be available to the members of the Commission and to the public by noon on the Friday preceding the Wednesday meeting to which it pertains.

## **G. ORDER OF MEETINGS**

1. Unless the chairperson in his or her discretion otherwise directs, the order of business shall be as follows:
  - (a) The Chairperson shall take the chair precisely at the hour appointed for the meeting and shall immediately call the Commission to order.
  - (b) Members present and absent shall be recorded by roll call vote.
  - (c) Pledge of Allegiance shall be made.
  - (d) At the discretion of the Chairperson or acting Chairperson, an invocation may be given by a Planning Commission member.
  - (e) The Agenda shall be approved as submitted or revised (to the extent permitted by law).
  - (f) The minutes of any preceding meeting shall be submitted for approval.
  - (g) The public shall be advised of the procedures to be followed in the meeting.
  - (h) The Commission shall then hear and act upon those proposals scheduled for consideration at public hearing, followed by such other matters of business and reports as the Commission or Planning Director finds to require Commission consideration, and as may be properly considered at that time.
  - (i) Public comment shall be taken, during which any member of the audience may comment on any matter which is not listed on the agenda for public hearing. A time limit of three minutes may be imposed on each individual if the Chairperson in his or her discretion so directs.
  - (j) No action shall be taken by the Commission during any regular meeting on any item not appearing on the posted agenda unless any of the following conditions apply:
    - (1) A majority of the Commission determines that an "emergency situation" exists,

- (2) The Commission determines by a two-thirds vote, or by a unanimous vote if less than two-thirds of the members are present, that the "need to take action" on the item arose subsequent to the posting of the agenda, or
- (3) The item was included in a properly posted agenda for a prior meeting occurring not more than five days prior to the date of the meeting at which the action is taken and was continued to the meeting at which the action is taken.

(k) Adjournment

## **2. PRESENTATION OR HEARING OF PROPOSALS:**

The following shall be the order of procedure for public hearings or other proposals concerning planning and zoning matters, and for testimony, unless the Chairperson in his or her discretion shall otherwise direct.

- (a) The Chairperson shall announce the subject of the public hearing or other proposal as advertised.
- (b) If a request is made for continuance, a motion may be made and voted upon to continue the public hearing to a definite time and date. The Commission may elect to open the hearing and receive evidence prior to acting upon a request or motion to continue the matter.
- (c) The staff shall be asked to present the substance of the application, staff report and recommendation and to answer technical questions from the Commission.
- (d) Open public hearing for public testimony; order of testimony shall generally be as follows:
  - (1) Applicant's statement.
  - (2) Proponents' statements.
  - (3) Opponents' statements.
  - (4) If desired, a rebuttal from the applicant.
  - (5) The Chairperson may allow further comments from opponents, proponents and applicant as deemed appropriate by the Chairperson.
  - (6) Staff shall answer technical questions from the Commission, as staff testimony
  - (7) Public hearing closed.

- (8) The Commission shall then deliberate and either determine the matter or continue the matter to another date and time certain for decision or recommendation as appropriate.

**(e) Rules of Testimony**

- (1) Persons presenting testimony to the Commission are requested to give their name and address for the record.
- (2) If there are numerous people in the audience who wish to participate on the issue, and it is known that all represent the same opinion a spokesman should be selected to speak for the entire group, if possible. The spokesman will thus have the opportunity of speaking for a reasonable length of time and of presenting a complete case.
- (3) To avoid unnecessary cumulative evidence, the Chairperson may limit the number of witnesses or the time of testimony on a particular issue.
- (4) Irrelevant and off-the-subject comments will be ruled out of order.
- (5) The Chairperson will not permit personal remarks regarding the staff or individual commissioners during a public hearing. Complaints should be submitted in writing or presented verbally as a separate item on the agenda.
- (6) The Chairperson will not permit Commissioners to allow personal, disparaging remarks to applicants, proponents, opponents, or members of the audience, at any time.
- (7) No person shall address the Commission without first securing the permission of the Chairperson to do so.
- (8) All comments shall be addressed to the Commission. All questions shall be placed through the Chair.

**H. MOTIONS**

1. A motion to adjourn shall always be in order except during roll call.
2. The Chairperson of the Commission, or other Presiding officer, may make and second motions and debate from the Chair subject only to such limitations of debate as are imposed on all members of the Commission. However, since the Chairperson is primarily responsible for the conduct of the meeting, if he or she personally desires to engage in extended debate on questions before the Commission, he or she should consider turning the Chair over to another Commissioner.



## **I. VOTING**

### **1. Voting Requirements**

- (a)** Three members shall constitute a quorum and an affirmative vote of a majority of those Commissioners present and voting (but not less than two votes) shall be required to carry motion, unless a larger number of votes is required by applicable ordinance or other law.
- (b)** When a member of the Commission abstains from voting on any matter before it, said vote shall not constitute nor be considered as either a vote in favor of or opposition to the matter being considered.
- (c)** Failure to obtain the number of votes required by subparagraph (a) above to carry a motion shall be construed as a denial of the motion. In the absence of a further motion, the denial of a motion to approve a matter before the Commission will be construed as a denial of that matter.

### **2. Voting Order**

The order of voting should be rotated each meeting except that the Chairperson should vote last.

### **3. Recording of Votes**

The minutes of the Commission's proceedings shall show the vote of each member, including if they were absent or failed to vote on a matter considered. A roll call vote shall be taken on all Resolutions and Planning Commission decisions.

### **4. Disqualification from Voting**

A member shall disqualify himself or herself from voting in accordance with all applicable Conflict of Interest Laws, Regulations and Codes. When a person has disqualified himself or herself, he or she shall disclose the disqualification prior to Commission consideration of the matter, and the disqualified member shall then leave the voting area.

### **5. Reconsideration**

Any Commissioner who voted with the prevailing side may move a reconsideration of any action at the same meeting or the next regular meeting following the meeting where the matter was voted upon. After a motion for reconsideration has been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the Commissioners present.

- J.** The Chairperson or such other person who may be presiding at meetings of the Commission is responsible for the maintenance of order and decorum at all times. No person should speak who has not first been recognized by the Chair. All questions and remarks should be addressed to the Chair.

- K.** Any Commissioner may move to require the Chairperson or person presiding at the meeting to enforce the rules, and the affirmative vote of a majority of the Commissioners present shall require him or her to so act.
- L.** Commissioners shall accord the utmost courtesy to each other, to Town employees, and to the public appearing before the Commission, and shall refrain at all times from rude and derogatory remarks, negative reflections as to integrity, abusive comments, and statements as to motive and personality.
- M.** All written communications and documents relating to a matter scheduled to be considered by the Planning Commission shall be submitted to the Planning Director or person acting in that capacity at least seven days before the date the matter is to be heard by the Planning Commission unless otherwise provided by law or unless it was not reasonably possible to do so, and in those instances, the written communications and documents shall be submitted at the earliest possible time. This paragraph shall be liberally construed so as to allow for fair public hearings.
- N.** During Planning Commission meetings, all documents or other writing not already included in the Planning Commission material which has been distributed to the Planning Commission prior to the meeting and which are offered for consideration by the Commission shall first be submitted to the Chair, who shall determine if it is proper for consideration and distribution to the Commissioners.
- O.** Failure to comply with the strict provisions of these rules shall not necessarily invalidate any action taken by the Commission.

### **III. REVIEW AND AMENDMENTS PROCEDURES**

- A.** These Rules of Procedure shall be reviewed in July of each year by a subcommittee appointed by the Chair with the general agreement of the Commission. The review subcommittee shall present their recommendation for amending or not amending these rules.
- B.** In addition, these Rules of Procedure may be amended at any meeting of the Planning Commission by a majority of the membership (three affirmative votes) of the Commission provided that notice of the proposed amendment is received by each Commissioner not less than 5 days prior to said meeting.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 18<sup>th</sup> day of May, 2005.

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Elliote B. Fajardo, Chairman

ATTEST:

I, Patty Hevle, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 18<sup>th</sup> day of May, 2005, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Patty Hevle, Planning Commission Secretary

