

Public Meetings & Land Use Hearing Process

SPRINGFIELD PLANNING COMMISSION – TRAINING AUGUST 3, 2021

PURPOSE OF THIS TRAINING

For Planning Commissioners

1. Effectively participate in public meetings
2. Understand and comply with Oregon legal requirements for land use decisions
3. Understand and comply with Oregon public records and public meetings requirements

For the Public

1. Effectively engage in public involvement opportunities with the Planning Commission
2. Understand legal rights during land use decision-making processes

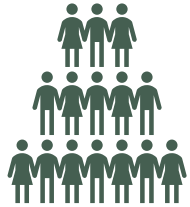
Planning Commission Bylaws

SMC 2.402-424

- 7 members
- No more than two in the same kind of business or profession
- Four-year terms
 - Per Council Operating Policies – 2-term limit, unless overridden by Council vote
- Meeting Schedule
 - At least once per month, as designated by PC.
 - Special meetings as determined by the Commission
- Scope of Authority
 - Recommendations to Council on Legislative planning decisions
 - Quasi-Judicial review of development permits
 - Acts as the Committee for Citizen Involvement (per City's acknowledged Citizen Involvement Program under Goal 1)

MEETINGS & PROCEDURES

MEETINGS OVERVIEW



Quorum required to meet

50% of current appointed members + One)



Meetings follow set agenda

Order of business set in advance by City staff

Public hearing process set by Development Code

Can be changed by motion and vote of the Commission



Meeting Minutes ORS 192.650

Identify disposition of all action items

Record votes by name

Describe the substance of any discussion (does not require precise detail or transcription of comments)

Reference to documents discussed

Oregon Public Meetings Law

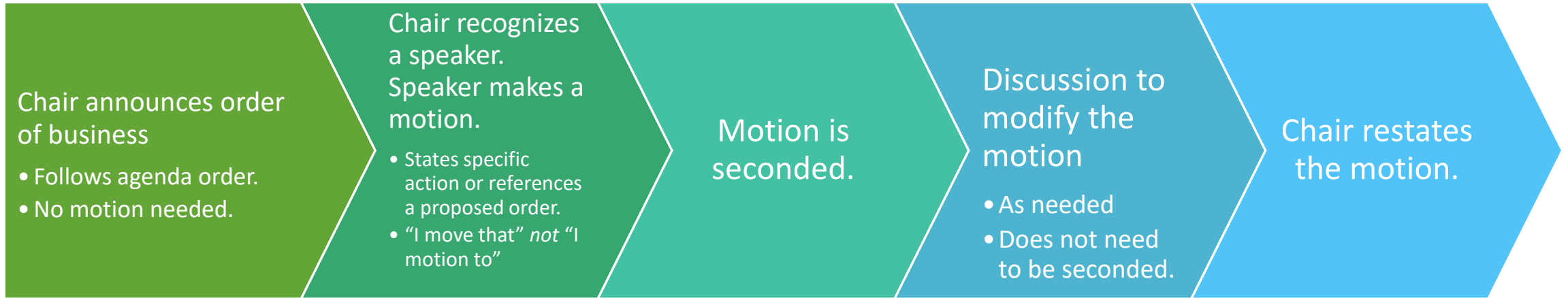
- **State Law Requirements:**
 - Quorum cannot “meet” outside a noticed public meeting
 - A “meeting” is deliberation or discussion of Planning Commission business by a quorum of the commission
 - Includes email, phone, or texting
 - Includes “serial meetings”
- **Rights of the Public:**
 - Entitled to attend all meetings (virtually and physically, post-COVID)
 - Participate during designated times (not all meetings/items)
 - Meetings to be accessible to persons with disabilities under the ADA

What and when are procedures strictly required?

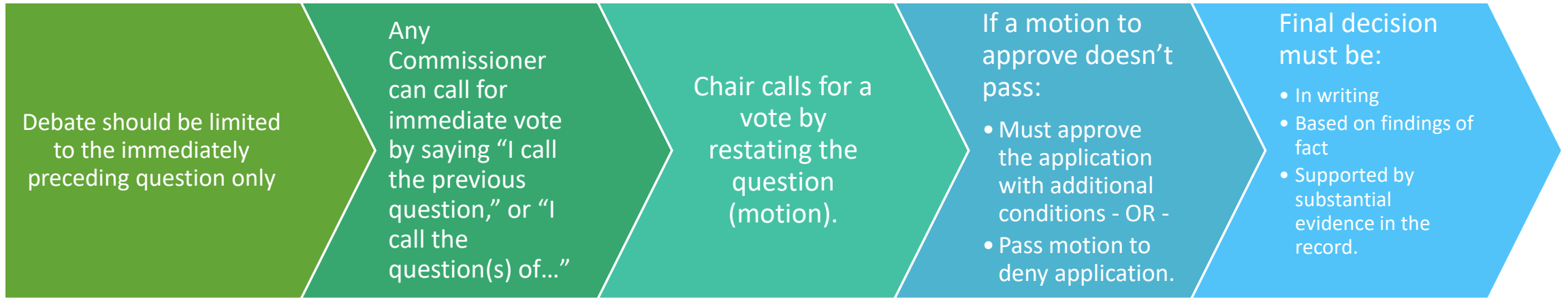
- Parliamentary procedure is not always a strict requirement
 - Most useful as a structure to guide decision-making
 - Anything goes with unanimous consent of Commission (within reason and within legal requirements)
- Important to follow Code for public hearings
 - SDC 5.2-150: Suspend rule of procedure with majority vote if not required by law
 - Oregon land use law: May deviate from procedures if it does not cause prejudice to any party
- Point of Order
 - Can always stop and sidebar re: procedure
 - City Attorney's Office and Planning Manager are resources

Making a Motion

1. Chair announces order of business (following agenda – No motion needed.
2. Chair recognizes a speaker. Speaker makes a motion.
 - States specific action or references a proposed resolution or order that states specifics.
 - “I move that” *not* “I motion to”
 - Does not require movant to vote for the motion.
3. Motion is seconded.
4. As needed, discussion to modify the motion – does not need to be seconded.
5. Chair puts motion “in play” by restating it for the Commission.



Making a Motion



Making a Decision

PUBLIC HEARINGS

Duties of the Presiding Officer

SDC 5.2-130

Regulate	Regulate the course and decorum of the hearing
Rule	Dispose of procedural requests or similar matters Rule on offers of proof and relevance of evidence and testimony Rule on a challenge for bias under Section 5.2-125.
Limit Time	Impose reasonable time limits on those testifying
Take Action	Take other action authorized by the Commission that is appropriate for conducting the public hearing

Order of Procedure SDC 5.2-135



Chair Opens Public Hearing



Explanation of criteria of approval, legal disclaimers for quasi-judicial hearing.



Disclosure of Conflicts, Bias, or Ex Parte Contacts



Objections to jurisdiction?



Staff Report

Order of Procedure SDC 5.2-135



Applicant Testimony



Public Testimony

In Favor

Neutral

Opposed



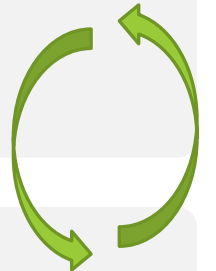
Staff Summary



Applicant Rebuttal



Questions to Staff, Applicant, members of public



Order of Procedure SDC 5.2-135



Close the Public Hearing



Close the Written Record



Discussion of policy issues,
compliance with criteria of
approval.

Code allows questions here,
but not recommended after
hearing and record are
closed.



Decision based upon findings

When to Close the Hearing & Record

Request to Continue Hearing?

- PC discretion whether to continue oral hearing.
- YES: State date, time, place of hearing.
- NO: Close the public hearing. Go to next step.

Request to Leave Record Open?

- Not discretionary for initial quasi-judicial hearing.
- YES: Extend record 7+7+7 for quasi-judicial hearings.
- NO: Go to next step.

More info needed to make decision?

- YES: Extend record at least 7+7+7 for quasi-judicial hearings.
- NO: Close written record (or reopen if closed prematurely). Deliberate and make final decision.

GOVERNMENT ETHICS

Ethics Obligations

- Commissioners are “Public Officials”
- Public Officials are personally responsible for ethics violations.
- The City does not defend public officials who violate ethics law.

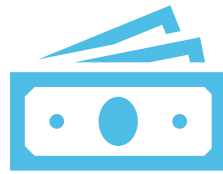




No financial gain from an official position.

Relatives are included:

- Spouse, parent, step-parent, child, sibling, step-sibling, child's spouse
- Spouse's relatives as listed above
- Someone public official is legally obligated to supports
- Someone public official provides or receives benefits arising from public official's employment



Very limited exceptions

Listed under state law

- Official compensation (Planning Commissioners are unpaid)
- Honorariums and gifts less than \$50 – defined in state law
- Reimbursement for expenses
- An unsolicited professional achievement award



Conflicts of Interest

Actual conflict would result in financial gain or avoiding a loss.

- Must recuse from discussion & voting.
- Potential conflict could result in financial gain or avoiding a loss.
- Must declare conflict before discussion.

Ethics Obligations

Planning Commissioners
must file annual verified
statement of economic
interest.

Due annually on April 15.

PUBLIC RECORDS

Public Records

- A “public record” is any writing that contains information related to the conduct of the public’s business, prepared, owned, used or retained by public body.



City has a duty to provide all nonexempt parts of a public record upon request and must respond within specific timeline

Only exemptions are listed in state laws (ORS 192.345 and 192.355)

Planning Commissioner emails, notes, and texts are public records.

City is required to retain certain public records according to a retention schedule published by the Secretary of State.

Retention Examples:

- Permanent: comprehensive plan documents
- 10-year: land use appeal files
- 1-year: notes from meetings, desk notes

Public Records

Questions?

Resources

- Oregon Government Ethics Commission *Guide to Public Official Ethics (2021 Edition)*
 - <https://www.oregon.gov/ogec/Documents/2021%20PO%20Guide%20Final%20Adopted.pdf>
- Oregon Attorney General's *Public Meetings and Public Records Manual*
 - <https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual/>
- Oregon Department of Land Conservation and Development “Oregon Planning” page
 - <https://www.oregon.gov/lcd/OP/Pages/index.aspx>
- Oregon Chapter American Planning Association “Planning Commissioner Resources” page
 - <https://oregon.planning.org/knowledge/planningcommissioner/>
- City of Springfield City Council Operating Policies and Procedures
 - <http://laserfiche.springfield-or.gov/weblink/Browse.aspx?startid=28270>

