

**WORKSHOP AGENDA**  
**HUNTINGTON BEACH PLANNING COMMISSION**  
**WEDNESDAY, MARCH 31, 2010**

**AGENDA ITEM NO. 4**

**PARLIAMENTARY PROCEDURES**

**ATTACHMENTS:**

- 1. PLANNING COMMISSIONER'S HANDBOOK – MEETINGS & PROCEDURES**
- 2. PLANNING COMMISSIONER'S JOURNAL - THE RIGGIN'S RULES**
- 3. THE A-B-C'S OF PARLIAMENTARY PROCEDURES**

## SECTION 2

# Meetings & Procedures



### MEETINGS

Planning commissions hold meetings—lots of them. All of the commission's discussions and decisions must occur at open and noticed meetings. (See Open Meeting Requirements, page 27). Commission meetings are often one of the few windows through which the public gets to see their government in action. The public's perception of government is often derived from how meetings are conducted. Members of the public—including those at home watching televised sessions—are not likely to distinguish between commissioners, staff, and others testifying at meetings. Therefore, fair and respectful treatment of all is very important.

There are generally three types of planning commission meetings:

- **Regularly Scheduled Meetings.** Decisions on individual projects are made at regularly scheduled meetings, many times after a public hearing.

- **Special Meetings.** Special meetings focus on specific issues. They often involve greater public outreach efforts. An example is a community workshop where members of the community are encouraged to come out and talk about a project that will affect their neighborhood. In some instances, the location of a special meeting may be different from regularly scheduled meetings to make it more convenient for attendees.
- **Work Sessions.** Work sessions provide a less formal atmosphere for the commission to receive information and discuss matters in a relaxed manner. They are often used for initially dealing with more complex or lengthy matters or to educate the commission about a specific policy. The commission is not allowed to make motions or take other actions to resolve a question or make a decision at work sessions.

### PREPARING FOR MEETINGS

As a planning commissioner, your primary job is to make land use decisions that are consistent with your local agency's plans, ordinances, and policies. To be effective, you should review the entire agenda packet before each meeting. This means reading the development application for each project on the agenda, along with the staff report, environmental assessment, and relevant sections of the general plan and the zoning or subdivision ordinance.

It is important that your agenda packet—usually received a few days before each meeting—contains the information that you need to make good decisions.

Commissioners should work closely with staff to develop a format that presents the key information clearly and efficiently. In addition, the commission should ensure that staff delivers the packets in time to allow for ample review before meetings.

You may also want to ask staff clarifying questions you have before each meeting. The questions should only address ambiguities that you have identified in the staff report or other documents. Discussing these issues before meetings gives staff time to provide you with the most relevant information. It also speeds up the permit process by minimizing the chance that a decision will be postponed due to incomplete information.

At public meetings, you should be able to both ask and answer questions about the projects under consideration, their relationship to the general plan and ordinances, and their potential impacts on the community. If legal questions arise, don't be afraid to ask your agency's attorney for an opinion. Never take legal advice from anyone other than your agency's own lawyer.

### ABSTENTION AND DISQUALIFICATION

When reviewing meeting agendas, you should keep an eye out for any items from which you should abstain or disqualify yourself. You may abstain from considering an agenda item when you have potentially conflicting loyalties that are not otherwise addressed by law. For example, if your cousin has a pending development application, the public would probably perceive that your personal loyalties conflict with your public duties. Even when you are certain of your impartiality, it can still be a good idea to abstain to avoid the appearance of impropriety. Disqualification, on the other hand, occurs when the law determines that you must not participate in a decision based on certain circumstances (see Ethics Laws, page 4).

Identifying potential conflicts before each meeting provides you and your agency counsel (not planning staff) the opportunity to examine how the laws apply to your economic interests. If necessary, you are more likely to have time to consult with the Fair Political Practices Commission to determine whether you are indeed disqualified or whether an exception applies. Early



### *The Duty to Decide, Not to Duck*

What if the law allows you to vote but you would prefer not to? It can be tempting to abstain when you know a decision will be unpopular or when you simply do not know what the right decision is. However, you were appointed to make tough decisions. It is unfair to let your fellow commissioners take the heat for a necessary but unpopular decision. Instead, you should come to meetings fully prepared and ready to explain your decision.

identification of conflicts also enables staff to determine whether your disqualification will affect the commission's quorum on an item or whether your participation will be legally required despite the conflict (there are limited circumstances in which this occurs).<sup>1</sup>

If you are disqualified from participating on a specific agenda item, you must:<sup>2</sup>

- Publicly identify the financial interest or potential conflict of interest in sufficient detail to be understood by the public
- Refrain from discussing or voting on the matter
- Leave the room until after the discussion, vote, and any other disposition of the matter, unless the matter is on the consent calendar

After disqualification, the only way to participate on the agenda item is as a member of the public during the public comment period. However, you may wish to consider how the public will perceive such testimony. You must balance your rights as an individual citizen against your duty to maintain the public's trust in the agency you serve.

There are limited exceptions that allow a disqualified official to remain in the room and participate when one's "personal interests" are at stake. These include:

- Interests in real property wholly owned by the official or his or her immediate family;

<sup>1</sup> Cal. Gov't Code § 87101; 2 Cal. Code Regs. § 18701.

<sup>2</sup> See Cal. Gov't Code § 87105; 2 Cal. Code Regs. § 18702.5.

## HOW TO GET THE MOST OUT OF PUBLIC MEETINGS

- **Notice.** Send out notices far enough in advance so that people can adequately respond. It is often good practice to find alternative means of keeping the public informed. It is very difficult for groups (such as a neighborhood association) to meet, become informed, take a position, and prepare testimony within a ten-day (much less a three-day) notice period.
- **Accessibility.** Hold the meeting at a place that is easy to reach using alternative transportation choices. Make sure the location is accessible for those with physical disabilities.
- **Room Size.** Ensure that the room is large enough to hold everyone who wants to attend.
- **Written Materials.** Have sufficient copies of the agenda and written materials placed near the entrance of the room.
- **Procedural Explanations.** Provide brief summaries of local agency procedures to help people who are new to the process understand what is going on and tailor their comments appropriately.
- **Speaker Slips.** Many agencies use speaker slips to organize comments during meetings. Such slips should provide space for the person's name and the agenda item that they want to speak on.
- **Audiovisual.** If electronic equipment will be used, make sure it is working and tested in advance. If software programs like PowerPoint will be used, pre-load the presentations into the computer.
- **Other Logistics.** Make sure all the other things—such as microphones, recorders, projectors, easels, maps, overheads, name plates, gavel, timer, flags, water, and anything else that will be used during the meeting—are in place.
- **Special Needs.** Address special needs that are likely to arise that are specific to the meeting. For example, an interpreter might be appropriate if a large number of people who do not use English as their first language is expected.
- **Timing.** Start on time.

- A business entity wholly owned by the official or his or her immediate family; and
- A business entity over which the official (or the official and his or her spouse) exercise sole direction and control.<sup>3</sup>

Even though the law allows the public official to remain in the room when these interests are at stake, the public official may still wish to balance that option with the potential that the public may nonetheless perceive that the official is improperly trying to influence his or her colleagues.

### MEETINGS AND PUBLIC HEARINGS

Public hearings are formalized opportunities for public comment. They are usually required for specific types of

actions, such as general plan adoption, zoning ordinances, development permits, and variances. The hearing guarantees that the fundamentals of due process—such as the right to notice and the opportunity to be heard—are incorporated into the decision-making process. (For more on due process, see Section 9).

Local agencies must give at least ten days notice for a public hearing (compared to the three-day notice for a general meeting required under the Open Meetings Law—(see page 28).<sup>4</sup> For legislative actions such as general plan amendments or zoning ordinances, the notice is usually posted in a newspaper of general circulation. For development permits, notice must be mailed to affected property owners, including all owners within 300 feet of the affected parcel. These are the minimum standards that apply to all agencies.

<sup>3</sup> 2 Cal. Code Regs. §§ 17802.5(d)(3), 18702.4(b)(1).

<sup>4</sup> Cal. Gov't Code §§ 65090, 65095.

Individual agencies may adopt additional procedures at their discretion.

It is sometimes difficult to tell the difference between a general meeting and a public hearing, particularly when local agencies have incorporated similar processes into their general procedures. The planning commission may go back and forth between regular meeting and public hearing in the same session. If a public hearing is on the agenda, the chair will open the hearing at the appropriate time. The public is then given the opportunity to speak. At the end, the chair will close the hearing and deliberations on the item will proceed. Alternatively, the hearing can be continued to another meeting.

**BASIC MEETING PROCEDURES**

Meetings should be run in a manner that makes the person in the audience who has never attended a meeting before feel comfortable and able to participate. A simple, well-explained procedure is vital to inclusiveness. A typical meeting would include:

- Chair calls the meeting to order
- Commission secretary calls the roll
- Chair introduces key staff
- Chair reviews the commission's procedures
- Chair announces any changes to the agenda
- Commission acts on consent items
- Agenda items are addressed in turn
- Comments and questions
- Chair adjourns meeting

Most agencies use a "consent calendar" for routine items—such as approval of minutes—that can be handled without discussion. These items generally do not involve policy questions.

Regular agenda items include both public hearing and non-hearing items. Both types of items are handled in the same way. First, the chair asks if the applicant is

**CIVILITY IN PUBLIC MEETINGS**

Public debate includes the potential for disagreement, but this does not mean that civility has to go out the window. Civility is the notion of mutual respect, even in the face of disagreement. Uncivil meetings contribute to public alienation and antipathy towards government. Critics often claim that government's inability to deal with a broad range of issues results from the destructive way in which they are addressed.

The following are some tips for maintaining civility in meetings:

- **Separate People from the Problem.** Recognize that other thoughtful people have different views. Focus on solutions that are most likely to succeed. Avoid resolving disputes on an "us versus them" basis.
- **Limit Misunderstandings.** Make a continuing effort to understand the views and reasoning of people with opinions different than your own.
- **Get the facts.** Work together to resolve factual disagreements. Fact-finding can get opponents on the same page in terms of identifying the problem. When uncertainty in the data remains, contending parties need to explain the reasoning behind their differing interpretations.
- **Use Fair Processes.** Genuinely solicit and consider public input. Make decisions on the basis of substantive arguments.
- **Remain Open to Being Persuaded.** One crucial element of civility is the recognition of the possibility that others may have better ideas than your own. Seriously consider persuasive arguments and explain your own position.
- **Recognize the Good in Others.** As one author recommends: "Identify the biggest redeeming quality of that person who's always driving you crazy. Keep it in mind the next time the two of you interact."<sup>4</sup>

<sup>4</sup> Tim Terez, *Civility at Work: 20 Ways to Build a Kinder Workplace* (2002) at [www.betterworkplacenow.com/civilityart.html](http://www.betterworkplacenow.com/civilityart.html).

present. The chair may also find it helpful to determine how many other people also wish to speak about the application. This can often be accomplished by reviewing the speaker slips (pieces of paper filled out by those wishing to speak on an agenda item) that have been turned in to the commission secretary. The typical process for reviewing an application is:

- Staff report
- Commission questions of staff
- Applicant's presentation
- Commission questions to applicant
- Public comments
- Applicant's response
- Commission discussion

All questions should be addressed to the chair rather than to the applicant, staff, or anyone else. The chair should note these questions and ensure that they are answered. Other commissioners should also note issues of importance to them that are raised during testimony



### **Commenting During Meetings: How Much Is Too Much?**

Public meetings are an exceptionally precious resource. Accordingly, most commissioners are selective about their participation in the discussion. However, some ask questions that would be unnecessary had they prepared for the meeting and a few even use meeting time to "grandstand."

Commission meetings were not created as opportunities for individual commissioners to impress the media or the public. The goal is to accomplish the public's business as productively, efficiently, and professionally as possible. Most people are quick to spot comments that are more about self-promotion than about moving the discussion forward.

and bring them up later during the commission's deliberations.

The commission should openly discuss the issue at hand. It should state why it is making its decision and why it gives more weight to some factors than others. In many cases these reasons must be formally stated as findings. On complex projects, it is helpful to deal first with sub-issues, such as amendments to conditions, by making separate motions rather than making a motion to approve with numerous amendments.

In some cases when a public hearing is being held—or when there is a contentious or popular item that has attracted a lot of people—the commission may change the agenda order to accommodate those in the audience. However, doing so should be weighed against the chance that others might arrive later only to find that the issue on which they wished to speak has already been covered.

## **PARLIAMENTARY PROCEDURE**

The rules of procedure at meetings govern how motions are made and votes are taken. Typically, this process is guided by *Robert's Rules of Order*. The rules themselves are quite detailed and do not always lend themselves easily to planning commission meetings. However, a simplified version of these rules was printed in a two-part article entitled "Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century" in *Western City* magazine.<sup>5</sup> The summary below is drawn from these articles.

The rules of order are meant to create an atmosphere in which a meeting can be conducted efficiently, fairly, and with full participation. The chair and the members of the commission bear responsibility for maintaining common courtesy and decorum. It is generally best if only one person speaks at a time and for every speaker to be recognized by the chair before speaking. Debate and discussion should be focused but free and open. The chair should always ensure that debate and discussion of an agenda item focuses on the item and policy in question, not on the personalities of the individual commissioners or anyone else in attendance.

A proposed course of action is first presented formally as a motion. Three types of motions are most common:

<sup>5</sup> David Rosenberg, *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century* (pts. 1 & 2), *Western City*, Aug. and Sept. 2003; available at [www.westerncity.com/articles](http://www.westerncity.com/articles).



**Three Types of Motions:**

**Basic Motion:** *"I move that we approve the Smith project as recommended in the staff report."*

**Amendment to Motion:** *"I amend the basic motion to add the requirement that the applicant incorporate the design features recommended in the neighborhood group report."*

**Substitute Motion:** *"I move to make a substitute motion that we reject staff's recommendation and accept the developer's proposal as presented to us originally."*

basic motions, motions to amend, and substitute motions. Basic motions are made when a commissioner recommends a specific action after saying, "I move..." You can change or amend the terms of a basic motion by saying, "I move to amend..." You can also completely replace the basic motion with another by saying, "I move to make a substitute motion that..."

Motions to amend and substitute motions are often confused. A motion to amend seeks to retain the basic motion but to modify it in some way. A substitute motion seeks to throw out the basic motion and substitute a new and different motion for it. The question of whether a motion is really a motion to amend or a substitute motion is left to the chair. If you make a motion to amend but the chair determines that it is really a substitute motion, the chair's determination stands.

A motion should be seconded to ensure that more than one member is interested in supporting it. Debate can continue as long as the commission wishes, subject to the decision of the chair that it is time to move on or take action. At some point during the debate, someone may make a motion to limit debate by saying: "I move the previous question," "I move the question," or "I call for the question." What this motion is really saying is "I've

had enough debate. Let's get on with the vote." A motion to limit debate may include a time limit. For example: "I move we limit discussion on this item to 15 minutes." When such a motion is made, the chair should ask for a second. Assuming there is a second, debate is stopped and a vote on the motion to limit is taken. A motion to limit debate requires a two-thirds vote.

Decisions are generally made by a simple majority vote. Usually, a simple majority of those present are required. However, there are a few instances—such as general plan approvals—where a majority of the entire commission is required.<sup>6</sup> A tie vote means the motion fails. Thus, for a five-member commission, a vote of 3-2 passes the motion, but a 2-2 vote with one abstention means the motion fails. If a simple majority is required, but one member is absent and the vote is 2-2, the motion still fails. In some cases, a super-majority (two-thirds) vote may be required. Examples of this kind of action include motions to limit debate, close nominations, or suspend rules.

If there is no end to the discussion in sight and you want to move on, adjourn, or at least end the discussion, you can make one the following motions.

- **Motion to Adjourn.** Commission adjourns to its next regularly scheduled meeting.
- **Motion to Recess.** Commission takes immediate recess. Normally, the chair determines the length of the recess.
- **Motion to Fix the Time to Adjourn.** Commission adjourns at a specified time. For example, the motion might be: "I move we adjourn this meeting at midnight."
- **Motion to Table.** Discussion is halted and the agenda item is placed on hold. The motion can designate a specific time to return to the discussion or it may be indefinite: "I move we table this item until our meeting in October" or "I move we table this item indefinitely." When an item is tabled indefinitely, a commissioner will have to make a motion to take the item off the table at a future meeting.

These motions are not debatable and require an immediate vote, with a simple majority required for passage.

<sup>6</sup> Cal. Gov't Code §§ 65354, 65356.

## 10-STEP FORMAT FOR DISCUSSION OF AN AGENDA ITEM

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|--|---|--|
| <p>1] The chair announces the agenda item number and the subject.</p>  | <p>5] The chair invites a motion and announces the name of the motion maker.</p>  | <p>the motion to assure that everyone understands it.</p>  |
| <p>2] The chair invites the appropriate staff to report on the item.</p>   | <p>6] The chair asks for a second and announces the name of the person seconding.</p>   | <p>9] The chair takes a vote. Simple “ayes” and “nays” are normally sufficient. A person not voting abstains. A motion passes with a simple majority unless there is a super-majority requirement.</p>   |
| <p>3] The chair asks members of the commission if they have any clarifying questions for the staff.</p>  | <p>7] If a motion is made and seconded, the chair makes sure everyone understands by repeating it or asking the maker to repeat it.</p>                             | <p>10] The chair announces the result, indicating the names of the members, if any, who voted in the minority. For example: “The motion passes by a vote of 3–2, with Smith and Jones dissenting. We have passed the motion requiring 10 days’ notice for all future meetings of this body.”</p> |
| <p>4] The chair invites public comments. Reasonable time limits—usually 3 to 5 minutes per person—may be imposed. Discussion is closed after everyone is given the opportunity to speak.</p> | <p>8] The chair invites discussion of the motion among the commissioners. Upon conclusion, the chair announces that it is time to vote. The chair should repeat</p> |  |

### CHAIRING MEETINGS

At some point, it is likely that you will be asked to chair one or more meetings of the commission. The attitude and abilities of the chair are critical for an effective meeting. The chair sets the tone of the hearing by keeping the discussion on track, encouraging fairness, and bringing the commission to the point of decision, even on complicated or controversial issues. A capable chair will bring many personal attributes—such as active listening, tact, decisiveness, and patience—to the role.

In addition, the chair must think quickly to articulate positions, clarify motions, and give direction to staff based on the differing views of individual commissioners. A very important—and often underrated—key to chairing a meeting is having a full understanding of the agenda items. Effective chairs put extra effort into studying the agenda and preparing for the meeting to better understand the nuances of the issues and options before them.

It is common practice for the chair to take a less active role in debates and discussions. This does not mean that the chair should not participate. On the contrary, as a member of the body, the chair has full rights to participate in discussions. The chair should, however,

usually offer his or her opinions last and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

The responsibilities of the chair include:

- **Open the Meeting.** Explain why the meeting is being held, review the agenda and note any changes, and review the procedures and time limits (if any) that are in effect.
- **Manage Public Testimony.** Describe the agenda item and ask speakers to identify themselves. Ask speakers to be concise and not repeat points made by prior speakers. Intervene when speakers ramble or when successive speakers repeat the same testimony. Assure that people have a reasonable length of time to testify and balance that with the number of people who want to testify. Sometimes there is a tendency to be easy on the time limits in the beginning of a meeting and more strict at the end. It's fairer for all if the time limits are applied consistently throughout.
- **Facilitate Deliberations.** Summarize issues, ask for input from the commission as a whole, and ask for more information from staff if necessary. When commissioners disagree, assist them in expressing

their various concerns. When a motion is proposed, assure that it is stated understandably before a vote is taken. At times, the chair may have to move the meeting along by asking for or suggesting a motion (“A motion at this time would be in order” or “A motion would be in order that we adopt staff’s recommendation”).

- **Maintain Order.** Assure that commissioners wait to be recognized before speaking and intervene to prevent more than one speaker from talking at a time. Do not allow members of the public to clap or cheer. Likewise, quickly step in when sharp words are exchanged. Limit dialogue between commissioners and persons testifying to fact-gathering that will contribute to the commission’s decision-making ability.
- **Apply the Rules of Procedure.** Be familiar with the commission’s procedures and agenda items. The chair’s decision is final on most rules of procedure.
- **Draw Out Reasons for a Decision.** Make sure that findings are adopted when required. When the commission makes a decision that is contrary to staff’s recommendation, make sure that the reasoning for the decision is explained so that the relevant findings can be drafted.

These duties are a lot to keep in mind, particularly the first few times you are called upon to chair a meeting. However, chairing a meeting is an acquired skill and you will become better at it the more you do it.

### QUASI-JUDICIAL AND LEGISLATIVE DECISIONS

Understanding the type of decision that the commission is being asked to make will help you understand your role in making the decision. Most land use decisions can be divided into two categories: legislative and quasi-judicial. Legislative decisions involve policy choices that apply to a broad class of landowners. Examples include decisions to adopt general plans and zoning ordinances. In contrast, quasi-judicial decisions (also called adjudicative or administrative decisions) involve individual projects that are being considered for approval or imposition of conditions. Examples include zoning permits or other entitlements, such as variances.

The key difference between the two from a decision-making perspective—as is discussed in more detail in the next subsection below—is that procedural due process requirements apply to quasi-judicial decisions. Because these decisions are more formal, you have to be

#### QUASI-JUDICIAL ACTS

- Conditional use permits
- Variances
- Coastal zone permits
- Subdivision maps
- Williamson Act cancellations
- Development allotment per growth control ordinance
- Certificates of compliance
- General plan consistency determination
- Habitat conservation plan amendments
- CEQA decisions requiring hearings and evidence

#### LEGISLATIVE ACTS

- Airport land use plans
- Water district annexations
- Planned unit developments
- Zoning and zoning amendments
- General plan adoption
- Annexations
- Special assessment establishment
- Road abandonment
- Specific plans
- Habitat conservation plans
- CEQA decisions not requiring hearings or evidence

more careful about the sources of information you use to make your decision.

There is also a third type of decision that may arise from time to time: ministerial decisions. These actions are those mandatory, nondiscretionary activities that must be approved if certain standards are met. A final subdivision map, for example, must be granted when all of the conditions of the tentative map are met. Likewise, certain applications for second unit or “granny flat” approvals in single-family neighborhoods are ministerial.



### KEY CONSIDERATIONS FOR QUASI-JUDICIAL PROCEEDINGS

As a commissioner, you play a unique role when you are considering an individual application or other quasi-judicial decision. In a way, you are operating as a court in that you are applying the local land use regulations to a specific application just as a court applies the law to a specific set of facts. Because of this, you should limit your decision to facts that are presented as part of the quasi-judicial process, just as a court basis its decision on the evidence presented before it.

This does not mean, however, that the commission must have detailed rules of evidence like a court does. The public hearing format is much simpler. However, you do need to be aware of how the basic requirements of procedural due process may affect your ability to make a decision. Basic procedural due process requirements include:

- **Notice of Hearing Required.** Quasi-judicial proceedings almost always involve a public hearing. Affected property owners should receive notice of the hearing by mail at least 10 days in advance, although different timelines and procedures may apply in charter cities.<sup>7</sup>
- **Decision-Maker Must Be Present For All Evidence.** Anyone involved in making the decision must have heard all the evidence. This becomes an issue if you miss a meeting where evidence is presented but the vote is postponed to a later meeting that you attend. While the best practice is to be present for all hearings, in some cases you may still vote after reviewing the tape or testimony of the earlier meeting, reading all

documents involved, reviewing all aspects of the issue presented, and stating on the record that such review and examination was completed.<sup>8</sup> However, your agency’s attorney may recommend that you abstain from the vote to avoid questions about fairness.

- **Avoid Ex Parte Contacts.** An *ex parte* communication about a project occurs when you receive information—by meetings on the street, phone calls, and even e-mails—outside of the quasi-judicial process (*ex parte* is Latin for “from one side only”). Reliance on information received in this way can be unfair because the opposing parties are not there to rebut the information. If you are about to receive this kind of information, you should explain that you are not permitted to discuss the issue outside of the hearing. Ask that the person submit their comments in writing for the consideration of the entire planning commission. The comments will then be included as part of the record (and have greater legal effect). You should also discuss the contact with the agency’s attorney. You may be able to resolve the problem by disclosing the contact and the substance of the communication at the hearing. This will get the evidence you received on the record.
- **Site Visits Raise Concerns.** It is often tempting to visit a project site to get a better feel for the issues. However, this action raises due process concerns. The visit provides you with an opportunity to draw conclusions outside of the hearing process. For example, if neighboring owners are concerned about traffic congestion and you visited the property on a

<sup>7</sup> Cal. Gov’t Code § 65091.

<sup>8</sup> David J. Curtin, Jr., & Cecily T. Talbert, *Curtin’s California Land Use and Planning Law* (Solano Press, 2004).

Sunday morning when there was no traffic, you might dismiss their claims as unwarranted. They may have just assumed you knew their concern was about congestion at peak travel times. Many local agencies require that you disclose any site visits that you may have made—along with any conclusions you drew from such visits—at the beginning of the hearing. Other agencies may take a more conservative approach. Always check with staff or the agency's attorney to see what procedures may apply to your commission.

- **Strong Personal Bias May Require Disqualification.** Strong personal bias may require that you disqualify yourself from making a decision. Procedural due process is built on the notion of an unbiased decision-maker. If you have spoken out for or against a specific project, you should consult with your agency's attorney to see if rules of common law bias require your disqualification. However, general predispositions—such as being generally concerned about the environment—are not enough to make disqualification necessary.<sup>9</sup>

Note that these rules generally apply only to quasi-judicial decisions. When you are making legislative decisions, such as adopting zoning ordinances, you have more freedom to gather your own information—such as by contacting members of the community and visiting sites—to help in making your decision.

## MAKING A DECISION

The primary job of a planning commission is to make informed land use decisions. Reaching decisions that can be supported by a majority of the commission is often difficult and requires a well-structured meeting and discussion. The following tips may help in the decision-making process:

- Accept that you probably aren't going to make a project perfect.
- Remember that you have more choices than to simply approve or deny a project as presented. Be prepared to suggest changes that address a concern that you have or that was raised during public testimony. Be aware that the applicant may have already made changes to

the project prior to the hearing. Ask about any such changes.

- Establish time limits and review periods to ensure that the project is implemented as the commission has required.
- Check with staff to see if a suggested condition can be enforced.
- Carefully consider the nexus (connection) to the project of any condition you wish to place on it. Does the condition really address a problem that will result from the project?
- Be willing to approve a project in concept and give staff clear direction to work with the applicant to complete the project.
- Consider the relationship of the project to the entire community and to your understanding of the community's goals and policies.
- Draw the line on conditions. Too many can overburden a project. If a project requires too many conditions, should you really be approving it? Remember, it is okay to deny a project if you have good legal cause.

Depending upon local procedures, the commission's decision on a project may be: (1) referred to the city council or board of supervisors as a recommendation for action (this is common for general plan amendments and rezonings) or (2) considered a final action unless appealed to the council or board (this is common for subdivisions, variances, and use permits).

## FINDINGS

Findings are written explanations of why—legally and factually—the planning commission made a particular decision. They map how the commission applied the evidence presented to reach its final conclusion. Findings should be developed with at least five audiences in mind: the general public, interested parties, the governing body, other governmental entities, and courts. Sometimes you may hear staff say that findings must “bridge the analytic gap.” This refers to a leading court decision that stated that findings must bridge the

<sup>9</sup> See *Fairfield v. Superior Court*, 14 Cal. 3d 768 (1975); *BreakZone Billiards v. City of Torrance*, 81 Cal. App. 4th 1205, 1235-1241 (2000).



### Questions Findings Should Answer

Findings should answer the following questions, as relevant to the particular decision:

1. Why was the regulation adopted or rejected?
2. Why was the permit approved or denied?
3. How does the decision meet relevant statutory requirements?
4. What is the connection between the action and the benefits of the project?
5. What public policy interests are advanced by the decision?
6. What do particular provisions, restrictions, or conditions mean?

analytic gap between the evidence presented and the agency's ultimate decision.<sup>10</sup>

Findings are helpful to the public. They offer an important opportunity to show how the commission's decision promotes the public's interests. In addition, findings:

- **Encourage Interagency Communication.** Findings can explain the basis of the commission's decision to the governing body.
- **Assure That Standards Are Met.** Some laws require that certain findings must be made before the commission can take a particular action.
- **Help Courts Interpret the Action.** Courts often look to the findings to determine the underlying rationale for an action or requirement. Findings provide the local agency with an opportunity to tell its side of the story.

Findings are always required when local agencies are acting in their quasi-judicial capacity<sup>11</sup>—that is, when they are making decisions on individual permits.

Findings are also required for certain legislative decisions. It is often a good idea to develop findings even when they are not required, particularly for decisions that may be controversial or lead to litigation.

How findings are drafted will vary—and there is no perfect way to do it. Typically, the staff report includes a proposed set of findings that supports staff's recommendation. Proposed findings provide a starting point for the commission to develop the final set of findings. The drawback is that the commission may not adopt the recommended position, requiring the preparation of a new set of findings. Even if the commission adopts staff's position, the proposed findings may not reflect the entire record because they are usually written before any public testimony.

Some local agencies have tried to address this challenge in two ways. The first is to include two proposed sets of findings in the staff report, one in support of staff's position and one in support of the opposite position. This method, however, has its own drawbacks. In addition to creating more work for staff, the unused set of findings provides a starting point for anyone who wants to appeal the decision. Also, some members of the public find it hard to understand how the same set of facts can be used to support both positions.

The second and more common method is for the commission to make a tentative decision at the meeting and explain its reasoning to staff. Staff can then draft the findings and return them to the commission at the next meeting, where the decision can be finalized and the findings adopted. This approach is not always viable when time deadlines (such as those imposed by the Permit Streamlining Act) require a decision before the next meeting is scheduled to occur.

Regardless of how findings are drafted, there are always some instances when the commission will need to articulate its findings orally immediately upon taking action. The challenge in such a situation is to develop findings on the fly that are specific enough to withstand judicial review. The following four-step process will help in such situations:

<sup>10</sup> *Topanga Association for a Scenic Community v. County of Los Angeles*, 11 Cal. 3d 506 (1974).

<sup>11</sup> *Id.*

- State the impact (either positive or negative) of the project
- Cite the source of the information (for example, a study, testimony, or other evidence)
- Refer to the relevant governing statute, regulation, or ordinance
- Describe in detail why or how the project's impact either meets or fails to meet the requirements included in the statute, regulation, or ordinance

One of the simplest techniques is to use the word "because." It connects the reasoning to the legal principle. For example:

- *"The project is inconsistent with Section III (A) of the housing element because only 3 percent of the units will be affordable instead of the required 15 percent."*
- *"The 100-foot-wide buffer does not threaten bird and wildlife migration because the biologist's report notes on page 32 that 65 feet is sufficient for each species in the project area."*

### THE RECORD

A key aspect of quasi-judicial hearings is the administrative record. The record is the collection of all evidence presented to the commission during the proceeding. This includes all written documents, testimony, photographs, maps, and any other evidence that was submitted during the hearing. Your own personal knowledge may also be relied upon as long as you announce it during the hearing (see page 21).

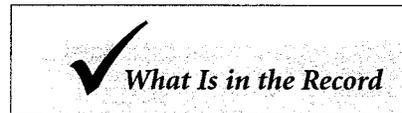
The record can include any written documents in the files of the local agency. Always be careful about what documents that you submit to planning staff. There have been instances where things have made it into the record—such as e-mails—that later turned out to be embarrassing. It is always a good rule to keep your communications with staff and others professional, particularly when they are expressed in writing.

Another issue that comes up from time to time is the level of detail used to express particular opinions and positions in the commission minutes. Different agencies

have different forms of minutes—but it is difficult to ask the minute taker to take such detailed notes. Many agencies have solved this issue by taping the commission hearings.

### APPEAL TO THE GOVERNING BODY

The process for appealing a planning commission decision will vary with each agency. Typically, commission decisions can be appealed to the governing body, which may overturn the commission's decision, adopt it, or modify it. In some instances, an applicant may request that only a specific portion of the commission's decision—such as a fee or mitigation condition—be reconsidered. Even in these cases, the governing body may decide to revisit the entire decision.



The information that is included in the record can vary with the proceeding, but typically includes:

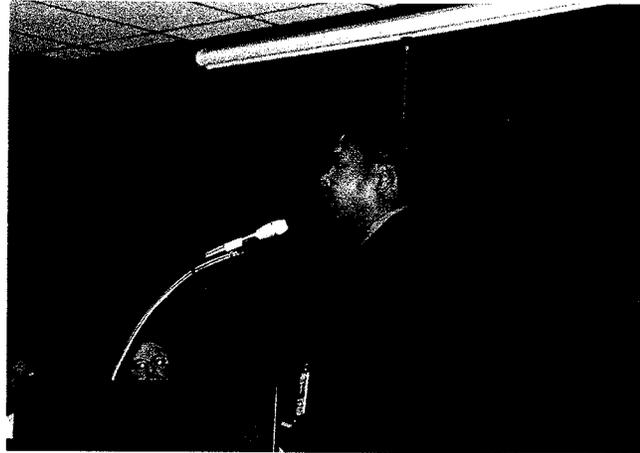
- The application
- A description of the property or area at issue
- Correspondence between the applicant and staff
- The staff report
- Written comments submitted by others
- Oral evidence given at the public hearing (memorialized)
- Plats, plans, drawings, photographs, deeds, and surveys
- Consultant reports
- Written testimony
- Records of mailed and published notices
- Relevant portions of the general plan, any specific plans, the zoning ordinance, and other ordinances and policies

In some communities, the planning commission may sit as an appeals board for decisions made by a zoning administrator, staff, or some other commission (like a historical resources or landmarks commission). Usually, these procedures are governed by specific guidelines contained in the local agency's zoning or development code.

## JUDICIAL REVIEW

If an applicant or community member has appealed an action to the governing body and is still not satisfied with the result, he or she may seek corrective action in the courts. This is another point where the distinction between legislative and quasi-judicial actions is important. Courts are more deferential to legislative actions because they involve policy choices. Our legislative system of government reserves policy choices for the legislative branch. Because of this, courts will only look to see that legislative decisions were not arbitrary, capricious, or entirely lacking in evidentiary support.<sup>12</sup>

In contrast, quasi-judicial decisions are scrutinized more closely because the local agency is acting more like a court than a legislative body. Courts will examine whether there was substantial evidence to support the agency's findings. The court will uphold the agency's decision if the evidence substantially supports the findings or decision.<sup>13</sup>



There are individual cases in which courts may apply a stricter standard. For example, when vested rights are at issue (see page 105), courts may apply an independent judgment test that allows the court to reweigh the evidence and substitute its own conclusions.<sup>14</sup> Likewise, stricter tests may apply for constitutional issues, such as free speech.<sup>15</sup> In such cases, the quality of the underlying administrative record and the local agency's findings will often be at the heart of the case.

<sup>12</sup> See for example *California Hotel & Motel Association v. Industrial Welfare Commission*, 25 Cal. 3d 200 (1979).

<sup>13</sup> *Sierra Club v. California Coastal Commission*, 19 Cal. App. 4th 547 (1993).

<sup>14</sup> Cal. Civ. Proc. Code § 1094.5(b), (c); *Strumsky v. San Diego County Employees Retirement Assn.*, 11 Cal. 3d 28, 44-45 (1974); *Goat Hill Tavern v. City of Costa Mesa*, 6 Cal. App. 4th 1519, 1525 (1992).

<sup>15</sup> See *Desert Outdoor Advertising, Inc. v. City of Moreno Valley*, 103 F.3d 814, 820 (9th Cir. 1996), cert. denied, 522 U.S. 912 (1997).

# The "Riggins Rules":

## SUGGESTED DO'S & DON'TS FOR THE CONDUCT OF PUBLIC HEARINGS AND THE DEPARTMENT OF MEMBERS OF BOARDS, COMMISSIONS, & OTHER BODIES

by Fred Riggins

**1. Don't accept an appointment or nomination to a Board, Commission, or Council unless you expect to attend 99.9999 percent of the regular and special meetings, including inspection trips, briefings and public functions where your presence is expected.**

If your participation falls below 85 percent during any six months' period, you should tender your resignation. You aren't doing your job. You aren't keeping well enough informed to make intelligent decisions, and you are making other people do your work for you and assume your not inconsiderable responsibility. Your effectiveness and the regard given to your opinions by other members will be in direct ratio to your attendance.

**2. Do create a good impression of city government.** Remember that this is the first important contact that many of the people in the audience have had with the administration of their city and for some this is the most important matter in which

*[Editor's Note: The "Riggins Rules" were brought to my attention by Bev Moody. Bev spent 26 years with the City of Phoenix Planning Department before moving to his current position with the Arizona Department of Commerce. During that time he knew the late Fred Riggins, a former Chairman of the Phoenix Planning Commission and author of these "Suggested Do's & Don'ts" (since re-titled the "Riggins Rules" in his honor). Bev Moody notes that the Riggins Rules have been left just as Fred Riggins wrote them in 1967 "because in their bluff, crusty, no-nonsense style, the man himself shines through." As Bev further explains, "you may notice that Mr. Riggins did not follow the principles of non-sexist language that prevail today ... please be forgiving as he was raised in and wrote these in less sensitive times — and it doesn't detract from the good advice he offers."*

*We'd very much like to get some reaction from you, our readers, to any of the Riggins Rules that particularly strike you — ones that you agree with or ones you disagree with. Or, perhaps you've had an experience that relates to one of Riggins' observations. Please take a few minutes to jot down your comment(s) and mail them to us at: P.O. Box 4295, Burlington, VT 05406, or FAX them to: (802) 862-1882].*

they have ever been involved. Many will never be back again and many will never have another such contact and experience. Your performance will create in their minds the picture which they will always carry with them of "the way the city is run." Make it as pleasant and comforting a picture as possible.

**3. Do be on time.** If the hearing is scheduled at 7:30, the gavel should

descend at the exact hour, and the hearing begin, if there is a quorum. If you have to wait ten minutes for a quorum and there are 100 people in the room, the straggler has wasted two full working days of someone's time besides creating a very bad beginning for what is a very important occasion for most of those present.

**4. Don't dress like a bum.** Shave, wear a tie, and remember that a coat is

never out of place. The people in the audience think you are a very important person. Don't disappoint them by your appearance, conduct, and attitude.

**5. Don't mingle with friends, acquaintances, unknown applicants or objectors in the audience before the meeting or during a recess period, if it can be politely avoided.** You will invariably create the impression with the uninformed that there is something crooked going on, especially when you vote favorably on the case of the applicant you were seen conversing with. When the other fellow's case comes up and you deny it, he says, "Well, it's easy enough to see that you've gotta know the right people if you ever expect to get anywhere around here." Save your socializing and fraternizing for some other time and place.

**6. Don't discuss a case privately and as a single member of a body with an applicant or objector prior to the filing and prior to**

he hearing if it can be politely avoided. In the event that it is not avoidable, and many times it is not, be very non-committal, don't be too free with advice, and by all means explain that you are only one member of the body, that you have not had an opportunity to study the matter thoroughly, that you have not seen the staff recommendation, and that you have no way of knowing what opposition there may develop or what will occur at the public hearing.

Be certain that the person concerned understands that you cannot commit yourself in any manner, except to assure him that he may expect a fair and impartial hearing. Even if the case looks pretty good to you, it is wise to be pessimistic about his chances of securing approval. If you give him any encouragement and any advice and he is then denied, he will hate you until your dying day and tell everyone in town that he did just exactly what you told him to do and then, like a dirty dog, you voted against him.

**7. Do your homework.** Spend any amount of time necessary to become thoroughly familiar with each matter which is to come before you. It is grossly unfair to the applicant and to the City for you to act on a matter with which you have no previous knowledge or with which you are only vaguely familiar. And you will make some horrible and disturbing decisions.

**8. Don't indicate by word or action how you intend to vote during the portion of the hearing devoted to presentations by the applicant, presentations by any persons appearing in objection, and comments by members of the staff.**

During this period your body is the judge and the jury and it is no more appropriate for you to express an opinion as to the proper decision, prior to hearing *all* of the testimony, than it would be for a judge or jury member to announce his firm conviction in the middle of a court trial regarding the guilt or innocence of the defendant. This is not

clearly understood by a majority of persons sitting on hearing bodies.

It is not too difficult to phrase one's questions or comments in a manner that implies that you are seeking information rather than stating an irrefutable fact and that your mind is closed to further argument.

One does not say, "I happen to know that the applicant has no intention of placing an apartment building on this site. In fact, it has been sold subject to zoning and the purchaser intends to put a mobile home park here if he can get a special permit." Rather than this, one could say, "We have been furnished with some information which indicates that perhaps your plans are not too firm regarding the development you propose. In fact, there are some who are concerned about a rumor that the property is being sold and that the new owner planned to put a mobile home park at this location, if he can secure the necessary permit. Would you care to comment on this concern of

the neighborhood and tell us if there is any truth in this rumor?" The same result is accomplished, the information is brought out and made part of the record and you don't look as if you are leading the attack to secure defeat of the applicant's request.

**9. Don't fail to disqualify yourself if either directly or indirectly you have any financial interest in the outcome of the hearing, and let your conscience be your guide where it could be said that moral, ethical, political, or other considerations, such as personal animosity, would not permit you to make a fair and impartial decision.**

In disqualifying yourself, *do not* state your reasons inasmuch as the mere stating of your reasons can be construed as exerting undue influence on your fellow members. To avoid all accusations of undue influence, it is generally wise to leave the room and ask that the record show that you did so and that you did not indicate by word or action whether

*continued on next page*

## "Riggins Rules"

continued from page 13

you were in favor of, or opposed to, the matter under discussion.

**10. Do rotate the seating** in some regular manner each successive meeting to prevent a "strong" member from gradually dominating a "weak" and indecisive member always seated next to him. This will also prevent the forming of little cliques or a not infrequent grouping of members to the left of the Chair who always oppose those to the right of the Chair, regardless of the merits of the case, to the great detriment of the applicant, the City and other interested parties.

**11. Do be polite and impartial;** as helpful as possible to the nervous, the frightened and the uneducated, and patient with the confused.

**12. Do be attentive.**

Those appearing before you have probably spent hours and hours preparing and rehearsing their arguments. The least you can do is listen and make them think that you are as interested as you should be. Refrain from talking to other members, passing notes and studying unrelated papers.

**13. Don't interrupt a presentation** until the question period, except for very short and necessary clarifying remarks or queries.

Most applicants have arranged their remarks in a logical sequence and the thing about which you are so concerned will probably be covered if you can force yourself to be quiet for a few minutes. You can wreck his whole case by a long series of unnecessary questions at the wrong time. He will be your enemy forever.

**14. Don't permit more than one person at the podium and microphone at any one time.**

**15. Don't permit a person to directly question or interrogate other persons in the audience.** All questions should be addressed to the Chair and to the hearing body. When this person has finished his discussion and stated the questions to which he would like to have answers, then the Chair will permit those who care to make an answer to come forward and do so, but only voluntarily. Do not permit anyone to demand answers to all and sundry questions, especially if it is obviously done for the purposes of harassment.

**16. Don't use first names in addressing anyone at all**

during the course of the hearing. This includes audience, applicants, members of your particular body, even if the person concerned is your brother or your best friend.

*Nothing, repeat nothing* creates a more unfavorable impression on the public than this practice. It is poor "hearing manners," destroys the formality of the occasion, and makes the uninformed certain that some sort of "buddy-buddy deal" is about to be consummated. If you just can't bring yourself to calling someone Mr. or Mrs., use the third person form and call him "the applicant," or "the person who is objecting," or "the gentleman (or lady)," who is appearing here in connection with this case.

**17. Do show great respect for the chair,** always addressing the Chairman as "Mr. Chairman," "The Chairman," or "Chairman Jones," and always wait to be recognized before continuing. This will set an example for applicants and others wishing to be heard and will contribute a great deal toward the orderliness of the proceedings.

**18. Don't be critical of attorneys** who sometimes feel impelled to give unnecessarily lengthy presentations on behalf of

their clients. Avoid the strong temptation to make matters as difficult as possible for them. They are just trying to make a living and must convince their clients that they are really earning the rather substantial fee which they feel their service merits.

**19. Don't indulge in personalities** and don't permit anyone else to do so.

**20. Don't try to make the applicant or any other person appearing before you look like a fool** by the nature of your questions or remarks. This is often a temptation, especially when it is apparent that someone is being slightly devious and less than forthright in his testimony. But don't do it. If you must "expose" someone, do it as gently and kindly as possible.

**21. Don't become involved in altercations.** Some persons seem to come to hearings with the express purpose of "telling them guys down there how the cow ate the cabbage." you answer their irrelevant rantings, you are immediately involved in a fight. Don't answer or try to defend yourself. You are there to hear testimony and make decisions based thereon, not to head up a debating society. Remember, you are the judge and

ty. In most cases, it is sufficient to say, "thank you very much for coming here and giving us the benefit of your thinking. I am sure that the members of this body will give your remarks serious consideration when they are making their individual determinations on the merits of this case. Is there anyone who wishes to be heard?"

**22. Do invite interested persons to come forward where they can see when an applicant is discussing or talking from a diagram, site plan, or exhibit which is not visible to the audience.**

**23. Do not permit people to speak from the audience.** If it is important enough for them to speak at all, it is important enough for them to be recognized, come forward, give their name and address and say what they care to, if their remarks are pertinent.

**24. Do not permit people to leave the podium and microphone and approach closer to the hearing body except in unusual circumstances, usually to show a small exhibit or to explain some detail.** This ordinarily breaks down into a small mumbling session at one end of the dais with one or two members of the hearing body; the others are

uncertain about what is going on. The conversation usually does not get recorded, cannot be heard by the audience, and is almost impossible to control from the Chair.

**25. Don't become involved in neighborhood quarrels or wind up as the referee even if you are a veritable Solomon.** No matter how fair or impartial you should be, both sides will be mad at you. Stick to the merits of the case and rule out-of-order testimony which is irrelevant, personal, hearsay, and not pertinent to the matter being heard.

**26. Don't be vindictive and "punish" the applicant for some real or imagined affront to you or your Body on some previous occasion, perhaps bearing no relation to the present hearing.** It must be assumed that he is there legally, he has a right to be heard, and he has a right to a fair and impartial hearing on the merits of his present case without reference to something which he might or might not have done in the past or will perhaps do in the future.

**27. Don't try to be a hero** to beautiful women, little old ladies, widowed mothers with tiny infants in their arms, and the financially and socially dis-

tressed. Be sympathetic, but objective, and don't get carried away with such a strong desire to help that you throw the rule book out the window. Ninety-nine times out of a hundred you will do them some questionable service at the expense of their neighbors or the City and your kind-hearted action will come back to haunt you much sooner than anyone could have imagined. Stick to the rules.

**28. Don't assume the role of a fairy godfather** to those who have become involved in bad business deals or other self-imposed difficulties.

**29. Do not fail to give a reason when making a motion for approval or denial of an applicant's request.** If you fail to do this, the applicant, any objectors, a reviewing body of higher authority, or the courts may well assume that your decision was an arbitrary one not supported by the facts and should be reversed. Always mention the staff recommendation.

**30. Do not take staff recommendations lightly.** These recommendations are made after much study by professional people with years of experience in their field and are based on pertinent laws, ordinances,

regulations, policies, and practices developed by you and your predecessors. The recommendations of a good staff in possession of all the facts will almost always produce a *technical-ly correct* recommendation.

Your job is to temper this recommendation with information developed during the hearing which was not available to the staff. It is not unusual for a staff to voluntarily reverse or change the details of its recommendation during the course of a hearing. Always announce the staff recommendation prior to hearing any testimony and always make appropriate mention of it in the final decision.

**31. Don't forget that the staff is there to help you in any way possible.** It is composed of very capable professional people with vast experience. Lean on them heavily. They can pull you out of many a bad spot if you give them a chance. Or they may just sit and let you stew, if you do not give them the respect which is their due.

Remember that their usual practice is to remain silent unless they are specifically asked to comment. Most of them consider it presumptuous and unprofessional to inject any unsolicited comments into the hearings.

*continued on next page*

## "Riggins Rules"

continued from page 15

Always ask them to comment prior to the final vote.

**32. Don't try to answer technical questions even if you are sure that you know the answer.** You probably *don't* and will wind up looking like a fool. Refer these matters to the staff. That is one of the things they are there for. They have intimate day-by-day working experience with all pertinent ordinances and can nearly always give a timely, up-to-the-minute, professional dissertation on any subject in their field. And besides, it makes them more important and helps create an image of competency which is most helpful in assuring the public that their case has received more than a cursory glance and an arbitrary decision.

Lay members of a hearing body who "explain" ordinances to the audience usually wind up their less than accurate remarks with the pretty lame comment, "That's the way I understand it and if I am wrong, I would appreciate it if the staff would correct me." The staff usually does correct them, and ordinarily at some length. *Don't* try to show how smart you are, because you're not.

**33. Don't try to ease your conscience and toss the applicant a bone by granting him something less than he asked for, something he doesn't want, and something he can't use.** In all cases where it is appropriate, *give him what he asked for or deny it.* To do otherwise will only encourage applicants to ask for the "moon and the stars" in the hope that they will, at the worst, get the minimum requirements. A reputation for approving or denying applications as filed will result in much more realistic requests and make your job much easier.

**34. Do vote by roll call, except for routine administrative matters.** This is wonderful character training for each member of the body and emphasizes the "moment of truth" when he must look the applicant in the eye, make his own individual decision, and say "aye" or "nay" in a loud clear voice, all alone, with no one to hide behind. The alternate voting method is difficult for the Secretary to record, doesn't mean anything on a tape recording, is many times quite confusing, and gives cowards an opportunity to change their minds and vote twice when they are caught in the minority.

**35. Don't show any displeasure or elation, by**

word or action, over the outcome of a vote. This is very bad hearing manners and won't lead to the maintenance of a friendly cooperative spirit among members of a Body. It will lead to the creation of little cliques whose members vote in a block and become more interested in clobbering each other than in making fair and equitable decisions.

**36. Do discourage any post-mortem remarks by applicant, objectors, or members after the final vote and decision is announced, especially those afterthoughts designed to reopen the case.** It will invariably result in an unpleasant wrangle. Just say, "I'm sorry, but the final decision has been made. If you wish to submit additional testimony, it will be necessary for you to state your reasons by letter and the Body will decide at a subsequent meeting whether or not they wish to reopen the case. The next case on the agenda will be —."

**37. Do not hesitate to continue a case or take it under advisement if more information or greater deliberation is truly necessary, but do not use these administrative actions merely to avoid or delay making a decision before a hostile applicant or audience.**

**38. Do sit down and have a long soul searching session with yourself if you find that you are consistently "out in left field," that no one seems inclined to second your profound motions, and that you are quite often a minority of one.** You might be theoretically right, and probably are, but give some thought to what is practical, possible, and just. Don't be "stiff-necked" in your opinions. Give a little.

**39. Don't select chairmen on a seniority basis alone and don't pass the office along from member to member as a reward and honor.** The nicest guy in the world, the hardest working, the most interested and your most valuable member can be indescribably horrible in the Chair. This is just one of those facts of life which is hard to explain, but, unfortunately, all too true.

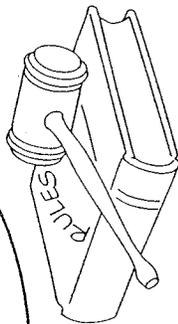
As occasion presents itself, give prospective chairmen a chance to preside, head up a sub-committee, report on special projects, and otherwise prepare themselves and demonstrate their abilities and leadership under pressure. ♦

# PARLIAMENTARY PROCEDURE



# WHAT IS PARLIAMENTARY PROCEDURE?

It's a set of rules for conducting business at meetings and public gatherings.

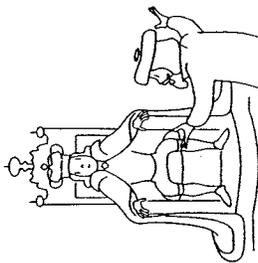


# WHY IS PARLIAMENTARY PROCEDURE IMPORTANT?

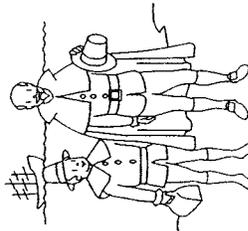
Because it allows everyone to be heard and to make decisions without confusion.

## PARLIAMENTARY PROCEDURE HAS A LONG HISTORY

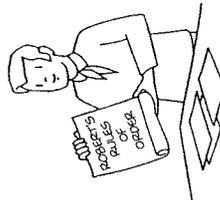
**IT ORIGINATED** in the early English Parliaments.



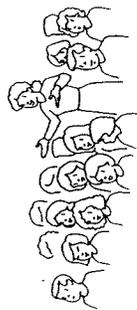
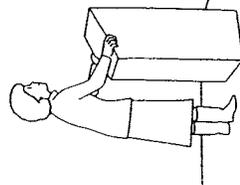
**IT CAME TO AMERICA** with the first European settlers.



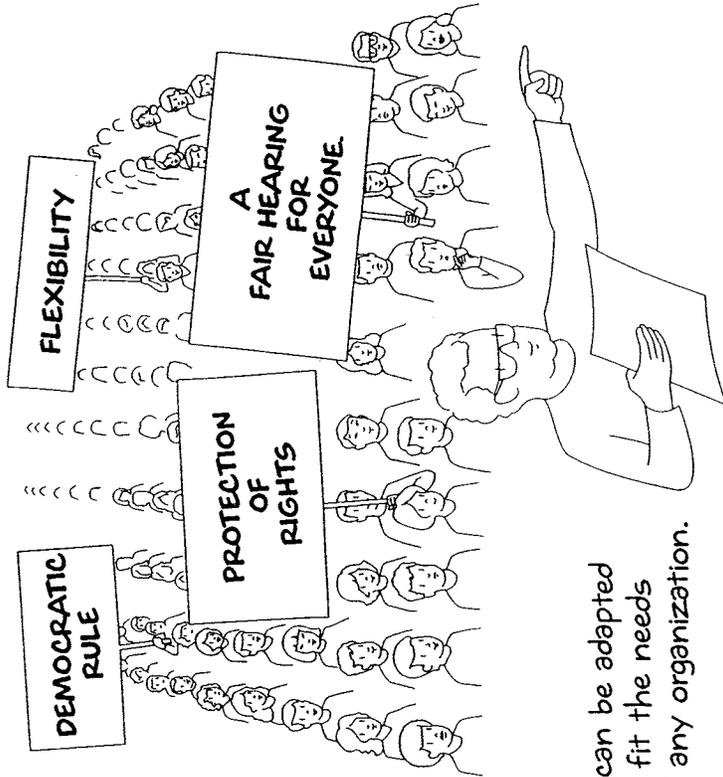
**IT BECAME UNIFORM** in 1876, when Henry M. Robert published his manual on Parliamentary Law.



Today, *Robert's Rules of Order Newly Revised*, 10th Edition, is the basic handbook of operation for many clubs, organizations and other groups.



## PARLIAMENTARY PROCEDURE MEANS:



It can be adapted to fit the needs of any organization.

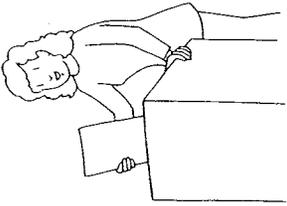
So, it's important for everyone to know these basic rules!

ATTACHMENT NO. 2

Note: A glossary and index are on page 14.

# A FIXED AGENDA,

or order of business, is generally followed by organizations using parliamentary procedure. Here's a typical example:



## 1. CALL TO ORDER

If a quorum\* is present, the chair (the person conducting the meeting) says, "The meeting will come to order."

## 2. MINUTES

The secretary reads a record of the previous meeting.

## 3. OFFICERS' REPORTS

Officers and standing (permanent) committees may report on their activities. Some only report at annual meetings.

## 4. REPORTS OF SPECIAL COMMITTEES

Special (temporary) committees report on the tasks for which they were created.

## 5. SPECIAL ORDERS

This is important business previously designated for consideration at this meeting.

## 6. UNFINISHED BUSINESS

This is business that has come over from the previous meeting.

## 7. NEW BUSINESS

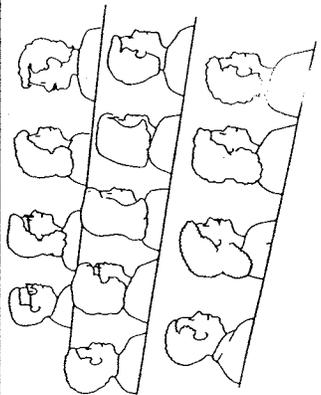
New topics are introduced.

## 8. ANNOUNCEMENTS

These inform the assembly (the people at the meeting) of other subjects and events.

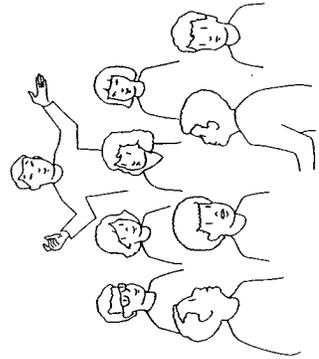
## 9. ADJOURNMENT

The meeting ends by a vote or by general consent (or by the chair's decision if the time of adjournment was prearranged by vote).



\* A quorum is the number or percentage of members that must be present for business to be conducted legally. The actual number is usually stated in the bylaws.

Note: Some assemblies may hold electronic meetings, such as videoconferences or teleconferences. These assemblies may need to modify some rules for obtaining the floor, but they should still follow the other rules of parliamentary procedure.



# HOW DO MEMBERS GET THEIR SAY?

They make motions. A motion is a proposal that the assembly take a stand or take action on some issue. Members have a right to:

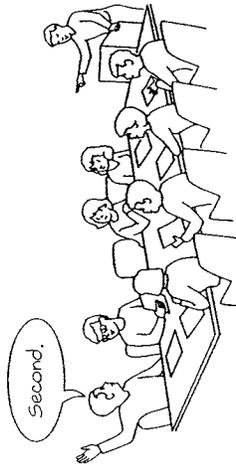
## PRESENT MOTIONS

(make a proposal)



## SECOND MOTIONS

(express support for discussion of another member's motion)



## DEBATE MOTIONS

(give opinions on the motion)



## VOTE ON MOTIONS

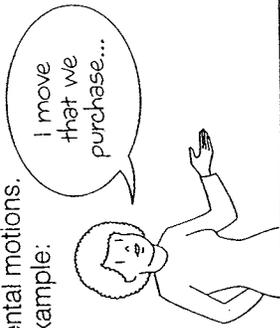
(make a decision).



# THERE ARE 5 GENERAL TYPES OF MOTIONS

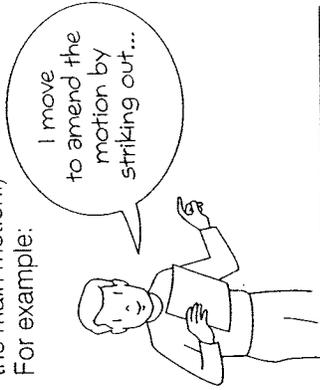
## 0 MAIN MOTIONS

These introduce subjects for consideration. They cannot be made when another motion is before the assembly. They yield to privileged, subsidiary and incidental motions.  
For example:



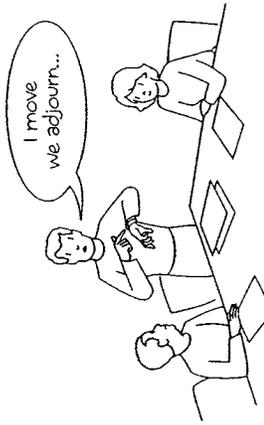
## 2 SUBSIDIARY MOTIONS

These change or affect how the main motion is handled. (They are voted on before the main motion.)  
For example:



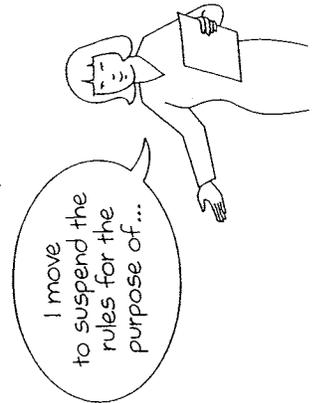
## 3 PRIVILEGED MOTIONS

These concern special or important matters not related to pending business. In general, they are considered before other types of motions.  
For example:



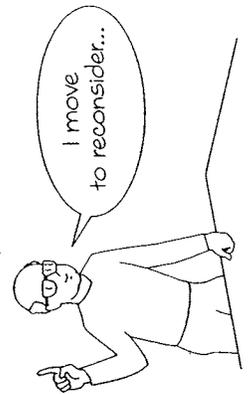
## 0 INCIDENTAL MOTIONS

These are questions of procedure that arise out of other motions. They must be considered before the other motion. For example:



## 6 MOTIONS THAT BRING A QUESTION AGAIN BEFORE THE ASSEMBLY

These enable certain items to be reconsidered. In general, they are brought up when no business is pending.  
For example:



## SOME QUESTIONS RELATING TO MOTIONS:

### IS IT IN ORDER?

Your motion must relate to the business at hand and be presented at the right time. It must not be obstructive, frivolous or against the bylaws.

### MAY I INTERRUPT THE SPEAKER?

Some motions are so important that the speaker may be interrupted to make them. The original speaker regains the floor after the interruption has been attended to.

### DO I NEED A SECOND?

Usually, yes. A second indicates that another member would like to consider your motion. It prevents spending time on a question that interests only one person.

### IS IT DEBATABLE?

Parliamentary procedure guards the right to free and full debate on most motions. However, some subsidiary, privileged and incidental motions are not debatable.

### CAN IT BE AMENDED?

Some motions can be changed by striking out or inserting wording, or both. Amendments must relate to the subject as presented in the main motion.

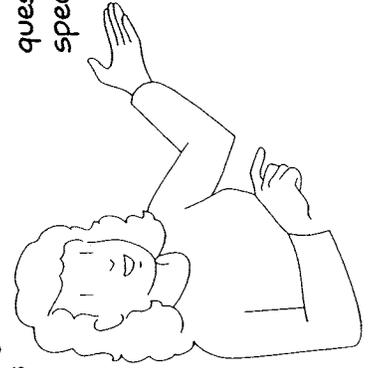
### WHAT VOTE IS NEEDED?

Most require only a majority vote (more than half the members present and voting). But, motions concerning the rights of the assembly or its members need a  $\frac{2}{3}$  vote to be adopted.

### CAN IT BE RECONSIDERED?

Some motions can be debated again and revoted to give members a chance to change their minds. The motion to reconsider must come from the winning side.

The table on pages 8 and 9 answers these questions for some specific motions.



# PARLIAMENTARY PROCEDURE AT A GLANCE

Here are some motions you might make, how to make them, and what to expect of the rules.

TO DO THIS:	YOU SAY THIS:	MAY YOU INTERRUPT THE SPEAKER?	DO YOU NEED A SECOND?	IS IT DEBATABLE?	CAN IT BE AMENDED?	WHAT VOTE IS NEEDED?	CAN IT BE RECONSIDERED?
ADJOURN MEETING	"I move to adjourn."	NO	YES	NO	NO	MAJORITY	NO
CALL AN INTERMISSION	"I move to recess for..."	NO	YES	NO ❶	YES	MAJORITY	NO
COMPLAIN ABOUT HEAT, NOISE, ETC.	"I rise to a question of privilege."	YES	NO	NO	NO	NO VOTE	NO
TEMPORARILY SUSPEND CONSIDERATION OF AN ISSUE	"I move to lay the motion on the table."	NO	YES	NO	NO	MAJORITY	NO ❷
END DEBATE AND AMENDMENTS	"I move the previous question."	NO	YES	NO	NO	%	YES ❸
POSTPONE DISCUSSION FOR A CERTAIN TIME	"I move to postpone the discussion until..."	NO	YES	YES	YES	MAJORITY	YES
GIVE CLOSER STUDY OF SOMETHING	"I move to refer the matter to committee."	NO	YES	YES	YES	MAJORITY	YES ❹
AMEND A MOTION	"I move to amend the motion by..."	NO	YES	YES ❺	YES	MAJORITY	YES
INTRODUCE BUSINESS	"I move that..."	NO	YES	YES	YES	MAJORITY	YES

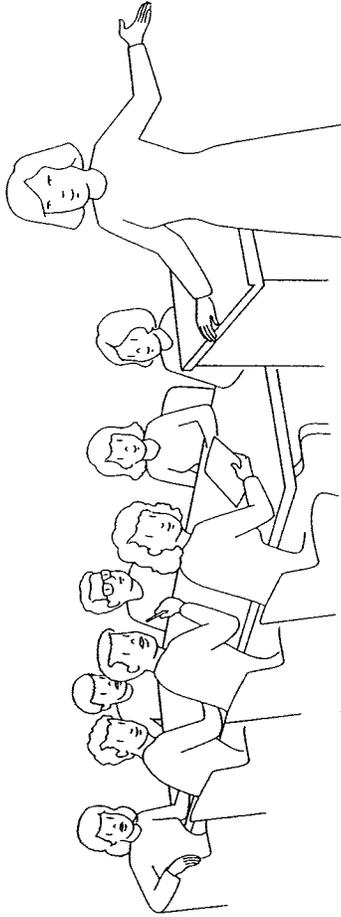
## THE MOTIONS LISTED ABOVE ARE IN ORDER OF PRECEDENCE. BELOW, THERE IS NO ORDER...

PROTEST BREACH OF RULES OR CONDUCT	"I rise to a point of order."	YES	NO	NO	NO	NO VOTE ❶	NO
VOTE ON A RULING OF THE CHAIR	"I appeal from the chair's decision."	YES	YES	YES	NO	MAJORITY	YES
SUSPEND RULES TEMPORARILY	"I move to suspend the rules so that..."	NO	YES	NO	NO	%	NO
AVOID CONSIDERING AN IMPROPER MATTER	"I object to consideration of this motion."	YES	NO	NO	NO	% ❶	YES ❷
VERIFY A VOICE VOTE BY HAVING MEMBERS STAND	"I call for a division," or "Division!"	YES	NO	NO	NO	NO VOTE	NO
REQUEST INFORMATION	"Point of information..."	YES	NO	NO	NO	NO VOTE	NO
TAKE UP A MATTER PREVIOUSLY TABLED	"I move to take from the table..."	NO	YES	NO	NO	MAJORITY	NO
RECONSIDER A HASTY ACTION	"I move to reconsider the vote on..."	YES ❸	YES	YES ❹	NO	MAJORITY	NO

NOTES: ❶ Unless moved when no question is pending. ❷ Affirmative votes may not be reconsidered. ❸ Unless the committee has already taken up the subject. ❹ Unless the motion to be amended is not debatable. ❺ Unless the speaker has the floor but has not actually begun to speak. ❶ A 2/3 vote in negative is needed to prevent consideration of the main motion. ❷ Only if the speaker has the floor but has not actually begun to speak. ❸ Unless the motion to be reconsidered is not debatable.

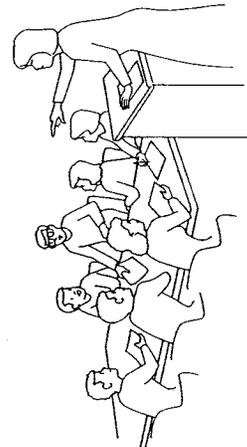
# HOW DO I PRESENT MY MOTION?

Here's what happens when you want a motion considered:



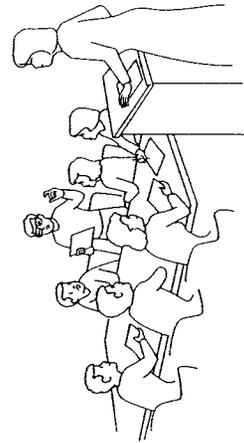
## 1 YOU OBTAIN THE FLOOR

- Wait until the previous speaker is finished.
- Rise and address the chair. Say, "Mr. (or Madam) Chairperson" or "Mr. (or Madam) President."
- Give your name. The chair will recognize you by repeating it.



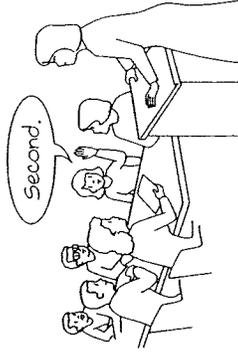
## 2 YOU MAKE YOUR MOTION

- Speak clearly and concisely.
- State your motion affirmatively. Say, "I move that we do..." instead of "I move that we do not..."
- Stay on the subject and avoid personal attacks.



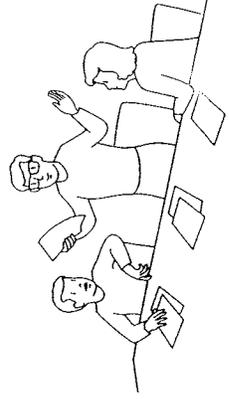
## 3 YOU WAIT FOR A SECOND

- Another member will say, "I second the motion."
- Or, the chair will call for a second.
- If there is no second, your motion will not be considered. Motions made at the direction of a board or committee (of more than one person) do not require a second.



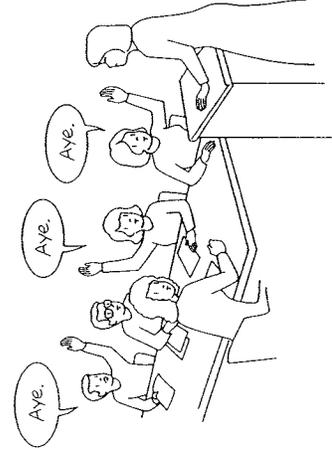
## 4 YOU EXPAND ON YOUR MOTION

- As the person who made the motion, you are allowed to speak first.
- Direct all comments to the chair.
- Keep to the time limit for speaking.
- You may speak again after all other speakers are finished.
- You may speak a third time by a motion to suspend the rules with a 2/3 vote.



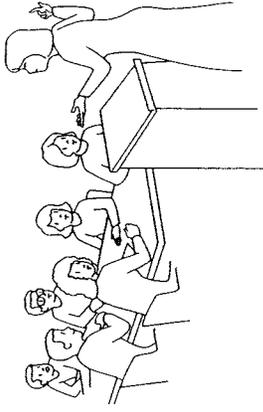
## 5 THE CHAIR PUTS THE QUESTION

- The chair asks, "Are you ready for the question?"
- If there is no more debate, or if a motion to stop debate is adopted, a vote is taken.
- The chair announces the results.



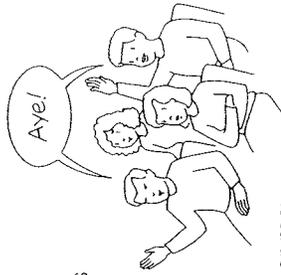
## 6 THE CHAIR STATES YOUR MOTION

- The chair must say, "It is moved and seconded that we..."
- After this happens, debate or voting can occur.
- Your motion is now "assembly property," and you can't change it without consent of the members.



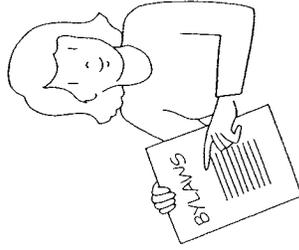
# THE METHOD OF VOTING ON A MOTION

depends on the situation and on the bylaws of your organization. You may vote by:



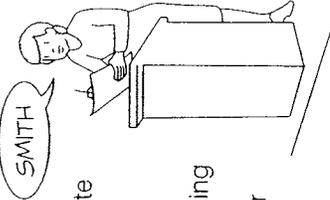
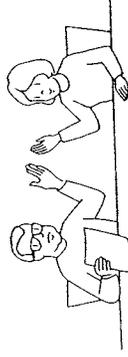
## VOICE

The chair asks those in favor to say "aye" and those opposed to say "no" (for majority votes only). A member may move for an exact count.



## SHOW OF HANDS

Members raise their hands to verify a voice vote, or as an alternative to it. This does not require a count. A member may move for an exact count.

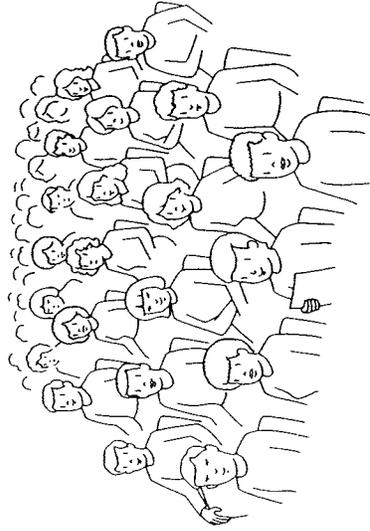
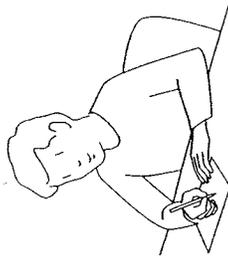


## ROLL CALL

If a record of each person's vote is needed, each member answers "yes," "no" or "present" (indicating the choice not to vote) as his or her name is called.

## BALLOT

Members write their vote on a slip of paper. This is done when secrecy is desired.

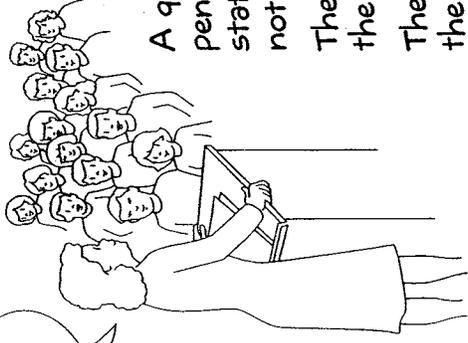


## GENERAL CONSENT

When a motion isn't likely to be opposed, the chair says, "there is no objection..." Members show consent by their silence.

If someone says, "I object," the matter must be put to a vote.

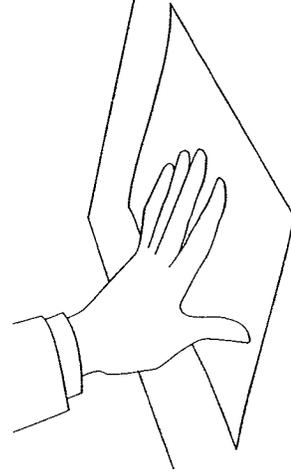
# MORE ABOUT VOTING



A question (motion) is pending when it has been stated by the chair but not yet voted on.  
The last motion stated by the chair is the first pending.  
The main motion is always the last voted on.

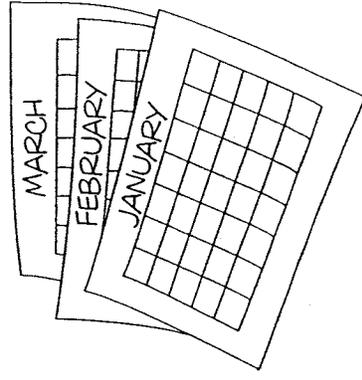
## A MOTION TO LAY ON THE TABLE

This motion is used to lay something aside temporarily to take care of a more urgent matter. It should not be used to prevent debate or to kill a question. Members can "take from the table" a motion for reconsideration. This must happen by the end of the current or next session (depending on how soon the next session is scheduled).

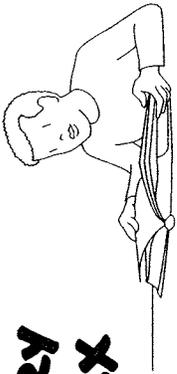


## A MOTION TO POSTPONE INDEFINITELY

This is parliamentary strategy. It allows members to dispose of a motion without making a decision for or against. This is useful in case of a badly chosen main motion for which either a "yes" or "no" vote would have undesirable consequences.



# GLOSSARY AND INDEX



So...

## PARLIAMENTARY PROCEDURE HELPS GET THINGS DONE

<b>ADJOURN</b> To end the meeting Ways to adjourn . . . . . 4 How to move to adjourn . . . 8-9	<b>MOTION</b> A proposal that the assembly take a stand or take action on some issue Types of motions . . . . . 6, 13 Procedures affecting motions . . . . . 6-7 Typical motions . . . . . 8-9 How to make a motion . . . . 10-11	Page
<b>AGENDA</b> Business to be considered during a meeting . . . . . 4		
<b>AMEND</b> To change a motion Ways to amend . . . . . 7 How to move to amend . . . . 8-9		
<b>COMMITTEE</b> A group of members chosen for a certain task . . . . . 4		
<b>DEBATE</b> Discussion about a motion Members' right . . . . . 5 When to debate . . . . . 7-9 Rules on debate . . . . . 11		
<b>GENERAL CONSENT</b> Adopting a motion without a vote . . . . . 12		
<b>IN ORDER</b> Relevant to the business at hand . . . . . 7		
<b>MAJORITY</b> More than half of the members present and voting In voting . . . . . 7 When required . . . . . 8-9		
<b>QUORUM</b> Number or percentage of members that must be present to conduct business legally . . . . . 4		
<b>SECOND</b> A verbal signal from a member that he or she wishes to consider a motion just made Members' right . . . . . 5 When required . . . . . 7-9 How to give a second . . . . 11		
<b>VOTING</b> Means by which motions are accepted or rejected by the assembly Members' right . . . . . 5 What vote is needed . . . . . 7-9 Method of voting . . . . . 12		

✓ **MAKE MOTIONS**  
that are in order.

✓ **OBTAIN THE FLOOR**  
properly.

✓ **SPEAK**  
clearly and concisely.

✓ **OBEY**  
the rules of debate.

And, most of all,  
be courteous.

