

MINUTES

Planning Commission COMMITTEE OF THE WHOLE City and Borough of Juneau Mike Satre, Chairman

January 27, 2015

I. ROLL CALL

Mike Satre, Chairman, called the Committee of the Whole Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 6:04 pm.

Commissioners present: Mike Satre, Chairman; Dennis Watson, Vice Chairman; Bill Peters, Michael LeVine (telephonically), Nicole Grewe, Gordon Jackson, Dan Miller, Paul Voelckers

Commissioners absent: Ben Haight

Staff present: Hal Hart, Planning Director; Beth McKibben, Senior Planner; Teri Camery, Senior Planner; Allison Eddins, Planner I; Chrissy McNally, Planner I; Jonathan Lange, Planner I; Tim Felstead, Planner I; Eric Feldt, Planner II, Beth McEwen, Deputy Clerk; Amy Mead, City Attorney

II. REGULAR AGENDA

CBJ Boards and Commission Training by Deputy City Clerk, Beth McEwen, and City Attorney, Amy Mead.

The Basics

Ms. McEwen provided a brief overview of the CBJ website. A quick link selection from the CBJ homepage can provide access to the Boards link, said Ms. McEwen. This is the gateway to all board and commission fact sheets and web pages, she added. This page provides information both for new board members and existing board members, said Ms. McEwen, such as public finance disclosure forms which need to be filled out by new members and renewed by members on an annual basis and Rules of Procedure for reference.

Quorum

Ms. McEwen said that sometimes the question of a quorum and when business can or cannot be conducted is not clear. Whatever constitutes a quorum of the particular board or commission, said Ms. McEwen, or subcommittee of that board or commission, is required for the meeting to be held. Whether the seats are filled or vacant, said Ms. McEwen, a quorum based upon the full membership is required in order for business to be conducted. If a member has a conflict of interest, said Ms. McEwen, then the number can be reduced by the number of members who are excluded due to a conflict of interest.

Ms. Mead clarified that if there are two or more members excused from deliberations due to a conflict of interest then the quorum would be reduced to four members. If the members were not excused the quorum would remain at five members, she stated.

Since this information differed from previous legal interpretation from the legal department, Ms. Mead said she would give the Commission a more definitive answer by its next meeting on this question.

Mr. Miller asked how the quorum would be affected at the forthcoming meeting in two weeks if two Commission members had stepped down due to a conflict of interest, and in addition several Commission members were absent from the meeting.

Ms. McEwen stated that aside from conflict of interest, the absent Commission members would have no effect on the quorum because the quorum was based upon the number of Planning Commission positions, not how many seats happened to be filled that particular evening at the meeting.

If a quorum is not present at the Commission meeting or at one of the subcommittee meetings, then the only business that can be transacted is to set the next meeting date and adjourn, said Ms. McEwen.

Title 49 and the Charter define the role of the Planning Commission, said Ms. McEwen. The conflict of interest code and the appeal code (01.50) are both important for Commission members to become familiar with, said Ms. McEwen. When considering anything that may be under appeal or has the potential of being under appeal, said Ms. McEwen, that section of the code is important.

Conflict of Interest

Commission members as defined by code are all municipal officers, said Ms. Mead. As municipal officers Commission members may not use their positions to gain any benefit, she said. They may not vote or deliberate on any matter in which they or any family member have any personal or financial interest, she said. If a Commission member think they may have a conflict said Ms. Mead, the best course of action would be to contact her office, she said. This would provide the Commission member with some measure of freedom from personal liability, she said.

If a Commission member thinks they have a conflict, they need to disclose publicly that they think they may have a conflict, and excuse themselves from deliberation, she said.

Mr. Voelckers asked for clarification on the distinction drawn between a conflict involved with a nonprofit entity and a for-profit entity.

Ms. Mead said the code reads that a fiduciary duty to a nonprofit organization does not constitute a personal interest on the part of a Commission member.

Mr. Miller asked if it was necessary to leave the meeting room when a Commission member stepped down due to conflict of interest.

Ms. Mead responded that this was not necessary unless the mere sight of the Commission member who stepped down influenced the decision-making process of the Commission.

Ms. McKibben asked if a person who stepped down due to a conflict of interest could testify on the issue.

Ms. Mead responded if a Commission member stepped down due to a conflict of interest in the matter they hold the same rights as any other member of the public.

Open Meetings Act

As an advisory body any prearranged meeting for the purpose of discussing any matter that body is empowered to discuss and then advise on is a meeting, said Ms. Mead. Three Commission members accidentally meeting at a coffee shop is not in violation of the Open Meetings Act, said Ms. Mead. Three members planning to get together to discuss a particular item of municipal business is in violation of the Open Meetings Act, she said. Discussions through email are also in violation of the Open Meetings Act, said Ms. Mead.

Executive sessions outside of the appeal process need to be publicly noticed, said Ms. Mead, and no official action may be taken during executive session, she said. That does not apply when the Commission sits in its quasi-judicial role, she said.

Public Records Act

The Public Records Act is based upon state statute, said Ms. Mead, and it is based upon the premise that all records held by public organizations are open to inspection by the public. If Commission members use their personal computing devices to conduct public business, then those communications on those personal devices are potentially public records, she said.

Mr. Levine asked if Commission members had any duty to retain information or documents they may have received on their personal devices.

Ms. Mead responded that they did not have any duty to retain that information, and that it was retained by the municipality.

Quasi-Judicial Role

When the Commission is sitting as a judge its role is to resolve the dispute between several sides, said Ms. Mead. It is important that Commission members not have a discussion with one side when not in the presence of the other side, she said.

The written findings of the Commission provide the legislative history of what then forms the basis of the legislation, said Ms. Mead. Conversely, said Ms. Mead, written findings are also important as the record for appeals, she said.

Ms. McEwen stressed that as a matter of record it is very important that minutes are taken for all meetings including advisory boards and committees. Depending upon the type of meeting the minutes do not have to be extensive, said Ms. McEwen, but it is important that some record of the proceedings be maintained, she said. The municipality's audio record of meetings are only maintained for five years, said Ms. McEwen.

Ordinance Process

They would like to streamline the ordinance process, said Ms. Mead, so that CDD staff and the law department worked together in drafting the ordinance. Therefore when it came before the Commission for review, said Ms. Mead, it would already be a version that the legal department had signed off on, she said.

III. **OTHER BUSINESS** - None

IV. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - None

V. **ADJOURNMENT**

The meeting was adjourned at 7:02 p.m.