REPORT TO PLANNING COMMISSION City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
January 13, 2011

To: Members of the Planning Commission

Subject: City Planning Commission Rules of Procedure – Voting Procedure (M11-001)

Location: Citywide

Recommendation: Discussion and action on proposed amendment to Planning Commission Rules of Procedure.

Contact: Sabina D. Gilbert, Senior Deputy City Attorney, 808-5346

Department: City Attorney's Office

Background:

City Council Rules of Procedure: The City Council Rules of Procedure provide that City Council established boards, commissions, and committees that are required by law to adopt rules of procedure shall adopt rules that are consistent with the City Council Rules to the extent possible (Council Rules, Chapter 1, §A2). The Council Rules require five affirmative votes to take action, five being a majority of the seats on the City Council (Council Rules, Chapter 8, §H1a). The Council Rules address abstentions for cause (financial conflict of interest and bias), but not otherwise. Where the Council Rules do not address an issue, the Council follows Robert's Rules of Order (Council Rules, Chapter 1, §E). Robert's Rules of Order allows for abstentions: "Although it is the duty of every member who has an opinion on a question to express that opinion by his vote, he can abstain, since he cannot be compelled to vote" (Robert's Rules of Order, Chapter XIII Voting, §45 Voting Procedure).

City Planning Commission Rules of Procedure: Currently, the Planning Commission Rules of Procedure require six affirmative votes to take action, six being a majority of the seats on the Commission (Commission Rules, Chapter 8, §H1a). The Commission Rules require that a Commissioner vote either aye or nay; abstention is not allowed (Commission Rules, Chapter 8, §H1b). This provision is not consistent with the Council Rules or with Robert's Rules of Order.

Discussion: The Planning Commission Ad Hoc Committee on Policies and Procedures has been discussing voting procedures and the use of abstentions and will be reporting

out on these discussions at the Planning Commission meeting. Attached is a proposed amendment to bring the Commission Rules into consistency with the Council Rules on the issue of voting and abstentions.

Respectfully Submitted By: Sabina Gilbert
Senior Deputy City Attorney

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Attachment 1 Proposed Amendment to Chapter 8 §H of the PC Rules of Procedure

H. Voting

1. Requirements for Action

~~a.~~ Unless a higher vote is required by law, the affirmative votes of at least six Commissioners shall be required to take action on any item of business.

~~b. Each Commissioner qualified to vote on a motion shall cast either an "aye" or "no" vote.~~

2. Voting Disqualification

a. Recusal for Financial Conflict of Interest or Bias.

(i) A Commissioner shall not vote upon any matter on which the Commissioner is disqualified due to a conflict of interest or bias.

(ii) At the time an item is called, a Commissioner shall openly state that he/she is recusing himself or herself due to a conflict of interest or bias.

(iii) The Commissioner who is recusing himself or herself due to a financial conflict of interest shall publicly identify the financial interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(iv) As to any other conflict of interest, the Commissioner's determination may be accompanied by an oral or written disclosure of such conflict of interest.

(v) Except as provided below for Consent Calendar items, a Commissioner who has announced a recusal due to a conflict of interest or bias in any matter shall immediately leave the dais and the hearing room during the discussion and must not vote on such matter. The Commissioner may remain on the dais for Consent Calendar items if the Commissioner states that he/she is recusing himself or herself from the vote due to the described conflict of interest or bias before the Consent Calendar is voted on in one motion.

b. Attendance at Hearings; Review of Record.

A Commissioner shall not be qualified to participate in the decision or vote on a matter that is the subject of a public hearing unless the Commissioner (i) has been present for the entire hearing, or (ii) has read a written transcript of the hearing or has listened to an audio recording of the hearing, and has reviewed the written staff report and all documentary evidence presented at the hearing (including audio visual presentations) prior to his or her participation and vote.